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ACTS

OF THE

PARLIAMENT OF THE UNITED KINGDOM

OF

GREAT BRITAIN AND IRELAND

RELATING TO

CRIMINAL LAW

AND TO

PROCEDURE IN CRIMINAL CASES,

PASSED IN THE SESSIONS HELD IN THE

33rd and 34th, 36th and 37th, and 37th and 38th years of

THE REIGN OF HER MAJESTY

QUEEN VICTORIA.

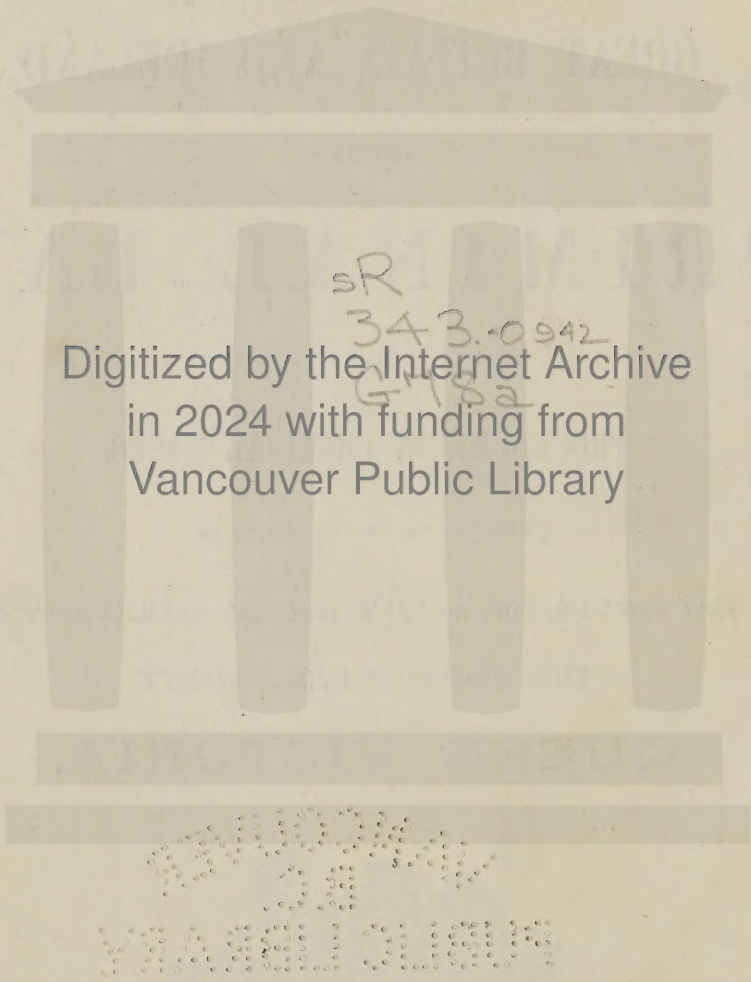


OTTAWA:

PRINTED BY BROWN CHAMBERLIN, LAW PRINTER (FOR CANADA) TO THE QUEEN'S MOST EXCELLENT MAJESTY.

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33-34 VICTORIA.

CHAP. 52.

An Act for amending the Law relating to the Extradition of Criminals. A.D. 1870.

[*9th August*, 1870.]

WHEREAS it is expedient to amend the law relating to the surrender to foreign States of persons accused or convicted of the commission of certain crimes within the jurisdiction of such States, and to the trial of criminals surrendered by foreign States to this country:—

Be it enacted by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:—

PRELIMINARY.

1. This Act may be cited as "The Extradition Act, 1870." Short title.

2. Where an arrangement has been made with any foreign State with respect to the surrender to such State of any fugitive criminals, Her Majesty may, by Order in Council, direct that this Act shall apply in the case of such foreign State. Where arrangement for surrender of criminals made, Order in Council to apply Act.

Her Majesty may, by the same or any subsequent order, limit the operation of the order, and restrict the same to fugitive criminals who are in or suspected of being in the part of Her Majesty's dominions specified in the order, and render the operation thereof subject to such conditions, exceptions and qualifications as may be deemed expedient.

Every

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Every such order shall recite or embody the terms of the arrangement, and shall not remain in force for any longer period than the arrangement.

Every such order shall be laid before both Houses of Parliament within six weeks after it is made, or, if Parliament be not then sitting, within six weeks after the then next meeting of Parliament, and shall also be published in the London *Gazette*.

Restrictions on surrender of criminals.

3. The following restrictions shall be observed with respect to the surrender of fugitive criminals:

(1.) A fugitive criminal shall not be surrendered if the offence in respect of which his surrender is demanded is one of a political character, or if he prove to the satisfaction of the Police Magistrate or the court before whom he is brought on *habeas corpus*, or to the Secretary of State, that the requisition for his surrender has in fact been made with a view to try or punish him for an offence of a political character:

(2.) A fugitive criminal shall not be surrendered to a foreign State unless provision is made by the law of that State, or by arrangement, that the fugitive criminal shall not, until he has been restored or had an opportunity of returning to Her Majesty's dominions, be detained or tried in that foreign State for any offence committed prior to his surrender other than the extradition crime proved by the facts on which the surrender is grounded:

(3.) A fugitive criminal who has been accused of some offence within English jurisdiction, not being the offence for which his surrender is asked, or is undergoing sentence under any conviction in the United Kingdom, shall not be surrendered until after he has been discharged, whether by acquittal or on expiration of his sentence or otherwise:

(4.) A fugitive criminal shall not be surrendered until the expiration of fifteen days from the date of his being committed to prison to await his surrender.

Provisions of arrangements for surrender.

4. An Order in Council for applying this Act in the case of any foreign State shall not be made unless the arrangement—

(1.) Provides for the determination of it by either party to it after the expiration of a notice not exceeding one year; and,

(2.) Is in conformity with the provisions of this Act, and in particular with the restrictions on the surrender of fugitive criminals contained in this Act.

Publication and effect of order.

5. When an order applying this Act in the case of any foreign State has been published in the London *Gazette*, this Act (after the date specified in the order, or if no date is specified, after the date of the publication,) shall, so long as the order remains in force, but subject to the limitations, restrictions, conditions, exceptions and qualifications, if any, contained in the order, apply in the case of such foreign State. An Order in Council shall be conclusive evidence that the arrangement therein referred to complies with the requisitions of this Act, and that this Act applies in the case of the foreign State mentioned in the order, and the validity of such order shall not be questioned in any legal proceedings whatever.

Liability of criminal to surrender.

6. Where this Act applies in the case of any foreign State, every fugitive criminal of that State who is in or suspected of being in any part of Her Majesty's dominions, or that part which is specified in the order applying this Act (as the case may be) shall be liable to be apprehended and surrendered in manner provided by this Act, whether the crime in respect of which the surrender is sought was committed before or after the date of the order, and whether there is or is not any concurrent jurisdiction in any court of Her Majesty's dominions over that crime.

Order of Secretary of State for issue of Warrant in United Kingdom if crime is not of a political character.

7. A requisition for the surrender of a fugitive criminal of any foreign State, who is in or suspected of being in the United Kingdom, shall be made to a Secretary of State by some person recognized by the Secretary of State as a diplomatic representative of that foreign State. A Secretary of State may, by order under his hand and seal signify to a Police Magistrate that such requisition has been made and require him to issue his warrant for the apprehension of the fugitive criminal.

If the Secretary of State is of opinion that the offence is one of a political character, he may, if he think fit, refuse to send any such order, and may also at any time, order a fugitive criminal accused or convicted of such offence to be discharged from custody.

Issue of Warrant by Police Magistrate, Justice, &c.

8. A warrant for the apprehension of a fugitive criminal, whether accused or convicted of crime, who is in or suspected of being in the United Kingdom, may be issued—

(1.) By a Police Magistrate on the receipt of the said order of the Secretary of State, and on such evidence as would in his opinion justify the issue of the warrant if the crime had been committed or the criminal convicted in England; and

(2.) By a Police Magistrate or any justice of the peace in any part of the United Kingdom, on such information or complaint and such evidence, or after such proceedings as would in the opinion of the person issuing the warrant justify the issue of a warrant if the crime had been committed or the criminal convicted in that part of the United Kingdom in which he exercises jurisdiction.

Any person issuing a warrant under this section without an order from a Secretary of State shall forthwith send a report of the fact of such issue, together with the evidence and information or complaint or certified copies thereof to a Secretary of State, who may if he think fit, order the warrant to be cancelled and the person who has been apprehended on the warrant to be discharged.

A fugitive criminal, when apprehended on a warrant issued without the order of a Secretary of State, shall be brought before some person having power to issue a warrant under this section who shall, by warrant order him to be brought, and the prisoner shall accordingly be brought before a Police Magistrate.

A fugitive criminal apprehended on a warrant issued without the order of a Secretary of State shall be discharged by the Police Magistrate, unless the Police Magistrate, within such reasonable time as, with reference to the circumstances of the case, he may fix, receives from the Secretary of State an order signifying that a requisition has been made for the surrender of such criminal.

Hearing of case and evidence of political character of crime.

9. When a fugitive criminal is brought before the Police Magistrate, the Police Magistrate shall hear the case in the same manner, and have the same jurisdiction and powers, as near as may be, as if the prisoner were brought before him charged with an indictable offence committed in England.

The

The Police Magistrate shall receive any evidence which may be tendered to show that the crime of which the prisoner is accused or alleged to have been convicted is an offence of a political character or is not an extradition crime.

Committal or discharge of prisoner.

10. In the case of a fugitive criminal accused of an extradition crime, if the foreign warrant authorizing the arrest of such criminal is duly authenticated, and such evidence is produced as (subject to the provisions of this Act) would, according to the law of England, justify the committal for trial of the prisoner if the crime of which he is accused had been committed in England, the Police Magistrate shall commit him to prison, but otherwise shall order him to be discharged.

In the case of a fugitive criminal alleged to have been convicted of an extradition crime, if such evidence is produced as (subject to the provisions of this Act) would, according to the law of England, prove that the prisoner was convicted of such crime, the Police Magistrate shall commit him to prison, but otherwise shall order him to be discharged.

If he commits such criminal to prison, he shall commit him to the Middlesex House of Detention, or to some other prison in Middlesex, there to await the warrant of a Secretary of State for his surrender, and shall forthwith send to a Secretary of State a certificate of the committal, and such report upon the case as he may think fit.

Surrender of fugitive to Foreign State by Warrant of Secretary of State.

11. If the Police Magistrate commits a fugitive criminal to prison he shall inform such criminal that he will not be surrendered until after the expiration of fifteen days, and that he has a right to apply for a writ of *Habeas corpus*.

Upon the expiration of the said fifteen days; or, if a writ of *Habeas corpus* is issued, after the decision of the court upon the return to the writ, as the case may be, or after such further period as may be allowed in either case by a Secretary of State, it shall be lawful for a Secretary of State, by warrant under his hand and seal, to order the fugitive criminal (if not delivered on the decision of the court) to be surrendered to such person as may in his opinion be duly authorized to receive the fugitive criminal by the foreign State from which the requisition for the surrender proceeded, and such fugitive criminal shall be surrendered accordingly.

It shall be lawful for any person to whom such warrant is directed and for the person so authorized as aforesaid to receive, hold in custody, and convey within the jurisdiction of such foreign State the criminal mentioned in the warrant; and if the criminal escapes out of any custody to which he may be delivered on or in pursuance of such warrant, it shall be lawful to retake him in the same manner as any person accused of any crime against the laws of that part of Her Majesty's Dominions to which he escapes may be retaken upon an escape.

Discharge of persons apprehended if not conveyed out of United Kingdom within two months.

12. If the fugitive criminal who has been committed to prison is not surrendered and conveyed out of the United Kingdom within two months after such committal; or, if a writ of *Habeas corpus* is issued, after the decision of the court upon the return to the writ, it shall be lawful for any judge of one of Her Majesty's Superior Courts at Westminster, upon application made to him by or on behalf of the criminal, and upon proof that reasonable notice of the intention to make such application has been given to a Secretary of State, to order the criminal to be discharged out of custody, unless sufficient cause is shown to the contrary.

Execution of Warrant of Police Magistrate.

13. The warrant of the Police Magistrate issued in pursuance of this Act may be executed in any part of the United Kingdom in the same manner as if the same had been originally issued or subsequently indorsed by a Justice of the Peace, having jurisdiction in the place where the same is executed.

Depositions to be evidence, 6 & 7 V., c. 76.

14. Depositions or statements on oath, taken in a foreign State, and copies of such original depositions or statements, and foreign certificates of or judicial documents stating the fact of conviction may, if duly authenticated, be received in evidence in proceedings under this Act.

Authentication of depositions and warrants, 29 & 30 V. c. 121.

15. Foreign warrants and depositions or statements on oath, and copies thereof, and certificates of or judicial documents stating the fact of a conviction, shall be deemed duly authenticated for the purposes of this Act if authenticated in manner provided for the time being by law or authenticated as follows:—

(1.) If the warrant purports to be signed by a Judge, Magistrate, or Officer of the foreign State where the same was issued;

(2.)

(2.) If the depositions or statements or the copies thereof purport to be certified, under the hand of a Judge, Magistrate, or Officer of the foreign State where the same were taken, to be the original depositions or statements or to be true copies thereof as the case may require; and

(3.) If the certificate of or judicial document stating the fact of conviction purports to be certified by a Judge, Magistrate, or Officer of the foreign State where the conviction took place; and

If in every case the warrants, depositions, statements, copies, certificates, and judicial documents (as the case may be), are authenticated by the oath of some witness or by being sealed with the official seal of the Minister of Justice, or some other Minister of State. And all Courts of Justice, Justices, and Magistrates shall take judicial notice of such official seal, and shall admit the documents so authenticated by it to be received in evidence without further proof.

CRIMES COMMITTED AT SEA.

Jurisdiction as to crimes committed at sea.

16. Where the crime in respect of which the surrender of a fugitive criminal is sought was committed on board any vessel on the high seas which comes into any port of the United Kingdom, the following provisions shall have effect:—

1. This Act shall be construed as if any Stipendiary Magistrate in England or Ireland, and any Sheriff or Sheriff substitute in Scotland, were substituted for the Police Magistrate throughout this Act, except the part relating to the execution of the warrant of the Police Magistrate;

2. The criminal may be committed to any prison to which the person committing him has power to commit persons accused of the like crime;

3. If the fugitive criminal is apprehended on a warrant issued without the order of a Secretary of State, he shall be brought before the Stipendiary Magistrate, Sheriff, or Sheriff substitute who issued the warrant, or who has jurisdiction in the port where the vessel lies, or in the place nearest to that port.

FUGITIVE CRIMINALS IN BRITISH POSSESSIONS.

Proceedings as to fugitive criminals in British Possessions.

17. This Act, when applied by Order in Council, shall, unless it is otherwise provided by such Order, extend to every British possession in the same manner as if throughout this Act the British possession were substituted for the United Kingdom or England, as the case may require, but with the following modifications, namely—

(1.) The requisition for the surrender of a fugitive criminal who is in or suspected of being in a British possession may be made to the Governor of that British possession by any person recognized by that Governor as a Consul General, Consul or Vice-Consul, or, if the fugitive criminal has escaped from a colony or dependency of the foreign State on behalf of which the requisition is made, as the Governor of such colony or dependency;

(2.) No warrant of a Secretary of State shall be required, and all powers vested in or Acts authorized or required to be done under this Act by the Police Magistrate and the Secretary of State, or either of them, in relation to the surrender of a fugitive criminal, may be done by the governor of the British possession alone;

(3.) Any prison in the British possession may be substituted for a prison in Middlesex;

(4.) A judge of any court exercising in the British possession the like powers as the Court of Queen's Bench exercises in England, may exercise the power of discharging a criminal when not conveyed within two months out of such British possession.

Saving of laws of British possessions.

18. If by any law or ordinance, made before or after the passing of this Act by the legislature of any British possession, provision is made for carrying into effect within such possession the surrender of fugitive criminals who are in or suspected of being in such British possession, Her Majesty may, by the Order in Council applying this Act, in the case of any foreign State, or by any subsequent order, either

Suspend the operation within any such British possession of this Act, or of any part thereof, so far as it relates to such foreign State, and so long as such law or ordinance continues in force there, and no longer;

or

or direct that such law or ordinance, or any part thereof, shall have effect in such British possession, with or without modifications and alterations, as if it were part of this Act.

GENERAL PROVISIONS.

Criminal surrendered by foreign State not triable for previous crime.

19. Where, in pursuance of any arrangement with a foreign State, any person accused or convicted of any crime which, if committed in England, would be one of the crimes described in the first schedule to this Act is surrendered by that foreign State, such person shall not, until he has been restored or had an opportunity of returning to such foreign State, be triable or tried for any offence committed prior to the surrender in any part of Her Majesty's dominions other than such of the said crimes as may be proved by the facts on which the surrender is grounded.

As to use of forms in second schedule.

20. The forms set forth in the second schedule to this Act, or forms as near thereto as circumstances admit, may be used in all matters to which such forms refer, and in the case of a British possession may be so used, *mutatis mutandis*, and when used shall be deemed to be valid and sufficient in law.

Revocation, &c., of Order in Council.

21. Her Majesty may, by Order in Council, revoke or alter, subject to the restrictions of this Act, any Order in Council made in pursuance of this Act, and all the provisions of this Act with respect to the original order shall (so far as applicable) apply, *mutatis mutandis*, to any such new order.

Application of Act in Channel Islands and Isle of Man.

22. This Act (except so far as relates to the execution of warrants in the Channel Islands) shall extend to the Channel Islands and Isle of Man in the same manner as if they were part of the United Kingdom; and the royal courts of the Channel Islands are hereby respectively authorized and required to register this Act.

Saving for Indian treaties.

23. Nothing in this Act shall affect the lawful powers of Her Majesty or of the Governor General of India in Council to make treaties for the extradition of criminals with Indian native States, or with other Asiatic States counterminous with British India, or to carry into execution the provisions of any such treaties made either before or after the passing of this Act.

Power of foreign State to obtain evidence in

24. The testimony of any witness may be obtained in relation to any criminal matter pending in any court or tribunal

United Kingdom.

tribunal in a foreign State in like manner as it may be obtained in relation to any civil matter under the Act of the session of the nineteenth and twentieth years of the reign of Her present Majesty, chapter one hundred and thirteen, intituled "*An "Act to provide for taking evidence in Her Majesty's Domin- "ions in relation to civil and commercial matters pending "before foreign tribunals;*" and all the provisions of that Act shall be construed as if the term civil matter included a criminal matter, and the term cause included a proceeding against a criminal: Provided that nothing in this section shall apply in the case of any criminal matter of a political character.

Foreign State includes dependencies.

25. For the purposes of this Act, every colony, dependency, and constituent part of a foreign State, and every vessel of that State, shall (except where expressly mentioned as distinct in this Act) be deemed to be within the jurisdiction of and to be part of such foreign State.

Definition of terms.

26. In this Act, unless the context otherwise requires,—

"British possession:"

The term "British possession" means any colony, plantation, island, territory, or settlement within Her Majesty's dominions, and not within the United Kingdom, the Channel Islands, and Isle of Man; and all colonies, plantations, islands, territories and settlements under one legislature, as hereinafter defined, are deemed to be one British possession:

"Legislature:"

The term "legislature" means any person or persons who can exercise legislative authority in a British possession, and where there are local legislatures as well as a central legislature, means the central legislature only:

"Governor:"

The term "Governor" means any person or persons administering the government of a British possession, and includes the governor of any part of India:

"Extradition crime:"

The term "extradition crime" means a crime which, if committed in England or within English jurisdiction, would be one of the crimes described in the first schedule of this Act:

"Conviction:"

The terms "conviction" and "convicted" do not include or refer to a conviction which under foreign law is a conviction for contumacy, but the term "accused person" includes a person so convicted for contumacy:

The

The term, "fugitive criminal" means any person accused or convicted of an extradition crime committed within the jurisdiction of any foreign State, who is in or is suspected of being in some part of Her Majesty's dominions; and the term "fugitive criminal of a foreign State" means a fugitive criminal accused or convicted of an extradition crime committed within the jurisdiction of that State: "Fugitive criminal:" "Fugitive criminal of a foreign State:"

The term "Secretary of State" means one of Her Majesty's Principal Secretaries of State: "Secretary of State:"

The term "Police Magistrate" means a chief magistrate of the metropolitan Police Courts, or one of the other magistrates of the metropolitan Police Court in Bow Street: "Police Magistrate:"

The term "Justice of the Peace" includes in Scotland any Sheriff, Sheriff's substitute, or Magistrate: "Justice of the Peace:"

The term "warrant," in the case of any foreign State, includes any judicial document authorizing the arrest of a person accused or convicted of crime: "Warrant:"

REPEAL OF ACTS.

27. The Acts specified in the third schedule to this Act are hereby repealed as to the whole of Her Majesty's dominions; and this Act (with the exception of anything contained in it which is inconsistent with the treaties referred to in the Acts so repealed) shall apply (as regards crimes committed either before or after the passing of this Act), in the case of the foreign States with which those treaties are made, in the same manner as if an Order in Council referring to such treaties had been made in pursuance of this Act, and as if such order had directed that every law and ordinance which is in force in any British possession with respect to such treaties should have effect as part of this Act: Repeal of Acts in third schedule.

Provided that if any proceedings for or in relation to the surrender of a fugitive criminal have been commenced under the said Acts previously to the repeal thereof, such proceedings may be completed, and the fugitive surrendered in the same manner as if this Act had not passed.

SCHEDULES.

SCHEDULES.

FIRST SCHEDULE.

List of Crimes.

The following list of crimes is to be construed according to the law existing in England, or in a British possession (as the case may be) at the date of the alleged crime, whether by common law or by Statute made before or after the passing of this Act:

Murder, and attempt and conspiracy to murder.

Manslaughter.

Counterfeiting and altering money and uttering counterfeit or altered money.

Forgery, counterfeiting, and altering, and uttering what is forged or counterfeited or altered.

Embezzlement and larceny.

Obtaining money or goods by false pretences.

Crimes by bankrupts against bankruptcy law.

Fraud by a bailee, banker, agent, factor, trustee, or director, or member, or public officer of any company made criminal by any Act for the time being in force.

Rape.

Abduction.

Child stealing.

Burglary and housebreaking.

Arson.

Robbery with violence.

Threats by letter or otherwise with intent to extort.

Piracy by law of nations.

Sinking or destroying a vessel at sea, or attempting or conspiring to do so.

Assaults on board a ship on the high seas with intent to destroy life or to do grievous bodily harm.

Revolt or conspiracy to revolt by two or more persons on board a ship on the high seas against the authority of the master.

SECOND SCHEDULE.

Form of Order of Secretary of State to the Police Magistrate.

To the Chief Magistrate of the Metropolitan Police Courts *or* other Magistrate of the Metropolitan Police Court in Bow Street [*or* the Stipendiary Magistrate at]

Whereas in pursuance of an arrangement with , referred to in an Order of Her Majesty in Council dated the day of , a requisition has been made to me, , one of Her Majesty's Principal Secretaries of State, by , the diplomatic representative of , for the surrender of , late of , accused [*or* convicted] of the commission of the crime of , within the jurisdiction of .

Now I hereby, by this my order under my hand and seal, signify to you that such requisition has been made, and require you to issue your warrant, for the apprehension of such fugitive, provided that the conditions of "*The Extradition Act*, 1870," relating to the issue of such warrant, are in your judgment complied with.

Given under the hand and seal of the undersigned, one of Her Majesty's Principal Secretaries of State, this day of 18 .

Form of Warrant of Apprehension by Order of Secretary of State

METROPOLITAN POLICE DISTRICT [*or* COUNTY *or* BOROUGH OF] TO WIT. } To all and each of the constables of the metropolitan police force, [*or* of the county *or* borough of

WHEREAS the Right Honorable one of Her Majesty's Principal Secretaries of State, by order under his hand and seal, hath signified to me that requisition hath been duly made to him for the surrender of , late of , accused [*or* convicted] of the commission of the crime of , within the jurisdiction of . This

is

is therefore to command you in Her Majesty's name forthwith to apprehend the said pursuant to "*The Extradition Act*, 1870," wherever he may be found in the United Kingdom or Isle of Man, and bring him before me or some other [*magistrate sitting in this court], to show cause why he should not be surrendered in pursuance of the said Extradition Act, for which this shall be your warrant.

Given under my hand and seal at [*Bow Street, one of the police courts of the metropolis] this day of 18 .

J. P.

*Note.—Alter as required.

Form of Warrant of Apprehension without Order of Secretary of State.

Metropolitan Police District [*or* County *or* Borough of] To Wit. } To all and each of the Constables of the metropolitan police force, [*or* of the county *or* borough of]

Whereas it has been shown to the undersigned, one of Her Majesty's justices of the peace in and for the metropolitan police district, [*or* the said county *or* borough of], that late of , is accused [*or* convicted] of the commission of the crime of within the jurisdiction of . This is, therefore, to command you in Her Majesty's name forthwith to apprehend the said , and to bring him before me or some other magistrate sitting at this court, [*or* one of Her Majesty's justices of the peace in and for the county (*or* borough) of], to be further dealt with according to law, for which this shall be your warrant.

Given under my hand and seal at Bow Street, one of the police courts of the metropolis, [*or* in the county *or* borough aforesaid], this day of 18 .

J. P.

Form of Warrant for bringing Prisoner before the Police Magistrate.

County [*or* Borough] of To Wit. } To , constable of the police force of , and to all other peace officers in the said county [*or* borough] of

Whereas , late of , accused [*or* alleged to be convicted of] the commission of the crime of within the jurisdiction of , has been apprehended and brought before the undersigned, one of Her Majesty's justices of the peace in and for the said county [*or* borough] of .

And

And whereas by "*The Extradition Act*, 1870," he is required to be brought before the chief magistrate of the metropolitan police court, or one of the police magistrates of the metropolis sitting at Bow Street, within the metropolitan police district [*or* the stipendiary magistrate for .]

This is, therefore, to command you, the said constable, in Her Majesty's name forthwith to take and convey the said to the metropolitan police district [or the said], and there carry him before the said chief magistrate or one of the police magistrates of the metropolis sitting at Bow Street within the said district [*or* before a stipendiary magistrate sitting in the said], to show cause why he should not be surrendered in pursuance of "*The Extradition Act*, 1870," and otherwise to be dealt with in accordance with law, for which this shall be your warrant.

Given under my hand and seal at , in the county [*or* borough] aforesaid, this day of 18 .

J. P.

Form of Warrant of Committal.

METROPOLITAN POLICE DISTRICT [*or* THE COUNTY *or* BOROUGH OF] TO WIT. } To , one of the constables of the metropolitan police force [*or* of the police force of the county *or* borough of], and to the keeper of the .

Be it remembered that on this day of , in the year of our Lord , late of , is brought before me , the chief magistrate of the metropolitan police courts [or one of the police magistrates of the metropolis] sitting at the police court in Bow Street, within the metropolitan police district, [*or* a stipendiary Magistrate for], to show cause why he should not be surrendered in pursuance of "*The Extradition Act*, 1870," on the ground of his being accused [*or* convicted] of the commission of the crime of within the jurisdiction of ; and for as much as no sufficient cause has been shown to me why he should not be surrendered in pursuance of the said Act :—

This is, therefore, to command you, the said constable in Her Majesty's name forthwith to convey and deliver the body of the said into the custody of the said keeper of the , at , and you, the said keeper, to receive the said into your custody, and him there safely to keep until he is thence delivered pursuant to the provisions

of the said Extradition Act, for which this shall be your warrant.

Given under my hand and seal at Bow Street, one of the police courts of the metropolis, [*or* at the said], this day of 18 .

J. P.

Form of Warrant of Secretary of State for surrender of Fugitive.

To the keeper of , and to

WHEREAS , late of , accused [*or* convicted] of the commission of the crime of within the jurisdiction of , was delivered into the custody of you , the keeper of , by warrant dated , pursuant to "*The Extradition Act*, 1870":—

Now I do hereby, in pursuance of the said Act, order you, the said keeper, to deliver the body of the said into the custody of the said ; and I command you, the said , to receive the said into your custody, and to convey him within the jurisdiction of the said , and there place him in the custody of any person or persons appointed by the said to receive him, for which this shall be your warrant.

Given under the hand and seal of the undersigned, one of Her Majesty's Principal Secretaries of State, this day of

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THIRD SCHEDULE.

Year and chapter.	TITLE.
6 & 7, V. c. 75.	An Act for giving effect to a convention between Her Majesty and the King of the French for the apprehension of certain offenders.
6 & 7, V. c. 76.	An Act for giving effect to a treaty between Her Majesty and the United States of America for the apprehension of certain offenders.
8 & 9, V. c. 120.	An Act for facilitating execution of the treaties with France and the United States of America for the apprehension of certain offenders.

An

Extradition.

THIRD SCHEDULE.—*Continued.*

An Act for giving effect to a convention between Her Majesty and the King of Denmark for the mutual surrender of criminals.	25 & 26, V. c. 70.
An Act for the amendment of the law relating to treaties of extradition.	29 & 30 V., c. 121.

OTTAWA: Printed by BROWN CHAMBERLIN, Law Printer (for Canada) to the Queen's Most Excellent Majesty.



36-37 VICTORIA.

CHAP. 60.

A. D. 1873.

An Act to amend the Extradition Act, 1870.

[*5th August*, 1873.]

BE it enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:

Construction of Act and short title. 33 & 34 V., c. 52.

1. This Act shall be construed as one with the "*Extradition Act*, 1870" (in this Act referred to as the principal Act), and the principal Act and this Act may be cited together as the "Extradition Acts, 1870 and 1873," and this Act may be cited alone as the "Extradition Act, 1873."

Explanation of s. 6 of 33 & 34 V., c. 52.

2. Whereas by section six of the principal Act, it is enacted as follows:

"Where this Act applies in the case of any foreign State, "every fugitive criminal of that State who is in or suspected "of being in any part of Her Majesty's dominions, or that "part which is specified in the order applying this Act (as "the case may be), shall be liable to be apprehended and "surrendered in manner provided by this Act, whether the "crime in respect of which the surrender is sought was com- "mitted before or after the date of the order, and whether "there is or is not any concurrent jurisdiction in any Court "of Her Majesty's dominions over that crime."

And whereas doubts have arisen as to the application of the said section to crimes committed before the passing of the

the principal Act, and it is expedient to remove such doubts, it is therefore hereby declared that—

A crime committed before the date of the order includes in the said section a crime committed before the passing of the principal Act, and the principal Act and this Act shall be construed accordingly.

Liability of accessories to be surrendered.

3. Whereas a person who is accessory before or after the fact, or counsels, procures, commands, aids or abets the commission of any indictable offence, is by English law liable to be tried and punished as if he were the principal offender, but doubts have arisen whether such person as well as the principal offender can be surrendered under the principal Act, and it is expedient to remove such doubts; it is therefore hereby declared that—

Every person who is accused or convicted of having counselled, procured, commanded, aided or abetted the commission of any extradition crime, or of being accessory before or after the fact to any extradition crime, shall be deemed for the purposes of the principal Act and this Act to be accused or convicted of having committed such crime, and shall be liable to be apprehended and surrendered accordingly.

4. Be it declared that the provisions of the principal Act relating to depositions and statements on oath taken in a foreign State, and copies of such original depositions and statements do and shall extend to affirmations taken in a foreign State and copies of such affirmations.

Explanation of s. 14 of 33 & 34 V., c. 52, as to statements on oath including affirmations.

5. A Secretary of State may, by order under his hand and seal, require a Police Magistrate or a Justice of the Peace to take evidence for the purposes of any criminal matter pending in any court or tribunal in any foreign State; and the Police Magistrate or Justice of the Peace, upon the receipt of such order, shall take the evidence of every witness appearing before him for the purpose in like manner as if such witness appeared on a charge against some defendant for an indictable offence, and shall certify at the foot of the depositions so taken that such evidence was taken before him, and shall transmit the same to the Secretary of State; such evidence may be taken in the presence or absence of the person charged, if any, and the fact of such presence or absence shall be stated in such deposition.

Power of taking evidence in United Kingdom for foreign criminal matters.

Any

Any person may after payment or tender to him of a reasonable sum for his costs and expenses in this behalf, be compelled, for the purposes of this section, to attend and give evidence and answer questions and produce documents in like manner, and subject to the like conditions as he may in the case of a charge preferred for an indictable offence.

Every person who wilfully gives false evidence before a Police Magistrate or Justice of the Peace under this section shall be guilty of perjury.

Provided that nothing in this section shall apply in the case of any criminal matter of a political character.

Explanation of s. 16 of 33 & 34 V., c. 52.

6. The jurisdiction conferred by section sixteen of the principal Act on a Stipendiary Magistrate, and a Sheriff or Sheriff substitute, shall be deemed to be in addition to, and not in derogation or exclusion of, the jurisdiction of the Police Magistrate.

Explanation of diplomatic representative and consul.

7. For the purposes of the principal Act and this Act a diplomatic representative of a foreign State shall be deemed to include any person recognized by the Secretary of State as a Consul-General of that State, and a Consul or Vice-Consul shall be deemed to include any person recognized by the Governor of a British possession as a Consular Officer of a foreign State.

Addition to list of crimes in schedule.

8. The principal Act shall be construed as if there were included in the first Schedule to that Act the list of crimes contained in the Schedule to this Act.

SCHEDULE.

List of Crimes.

The following list of crimes is to be construed according to the law existing in England or in a British possession (as the case may be) at the date of the alleged crime, whether by common law or by Statute made before or after the passing of this Act:

Kidnapping and false imprisonment.

Perjury

Perjury and subornation of perjury whether under common or Statute Law.

Any indictable offence under the Larceny Act of 1861, or any Act amending or substituted for the same, which is not included in the first Schedule to the principal Act. 24 & 25 V., c. 96, &c.

Any indictable offence under the Act of the session of the twenty-fourth and twenty-fifth years of the reign of Her present Majesty, chapter ninety-seven, "To consolidate and "amend the Statute Law of England and Ireland relating to "malicious injuries to property," or any Act amending or substituted for the same which is not included in the first Schedule to the principal Act.

Any indictable offence under the Act of the session of the twenty-fourth and twenty-fifth years of the reign of Her present Majesty, chapter ninety-eight, "To consolidate and "amend the Statute Law of England and Ireland relating "to indictable offences by forgery," or any Act amending or substituted for the same, which is not included in the first Schedule to the principal Act.

Any indictable offence under the Act of the session of the twenty-fourth and twenty-fifth years of the reign of Her present Majesty, chapter ninety-nine, "To consolidate and "amend the Statute Law of the United Kingdom, against "offences relating to the coin," or any Act amending or substituted for the same, which is not included in the first Schedule to the principal Act.

Any indictable offence under the Act of the session of the twenty-fourth and twenty-fifth years of the reign of Her present Majesty, chapter one hundred, "To consolidate and "amend the Statute Law of England and Ireland relating "to offences against the person," or any Act amending or substituted for the same, which is not included in the first Schedule to the principal Act.

Any indictable offence under the laws for the time being in force in relation to bankruptcy which is not included in the first Schedule to the principal Act.

OTTAWA: Printed by BROWN CHAMBERLIN, Law Printer (for Canada) to the Queen's Most Excellent Majesty.

[MEMORANDUM.—*Treaties or Conventions have been arranged with the following Foreign States to which the foregoing Acts therefore apply.*]

AUSTRIA.—Treaty between Her Majesty and the Emperor of Austria, King of Bohemia, etc., etc., Apostolic King of Hungary, for the mutual surrender of fugitive criminals. Dated the third day of December, 1873, and published in the *Canada Gazette*, the second day of January, 1874.

BELGIUM.—Treaty between Her Majesty and the King of the Belgians for the mutual surrender of criminals. Signed, at Brussels, 31st July, 1872 Ratification exchanged at Brussels, 29th August, 1872. Published in the *Canada Gazette*, December 28th, 1872.

BRAZIL.—Treaty between Her Majesty and the Emperor of Brazil for the mutual surrender of fugitive criminals. Signed, November 13th, 1873. Published in the *Canada Gazette*, January 2nd, 1875.

DENMARK.—Convention between Her Majesty and the King of Denmark for the mutual surrender of criminals. Signed, at London, 15th April, 1862. Ratifications exchanged at London, 27th May, 1862. Published in the *Canada Gazette*, August 30th, 1873.

FRANCE.—Convention between Her Majesty and the King of the French for the apprehension and surrender of certain offenders. Signed, at London, 13th February, 1843. Ratifications exchanged at London, 13th March, 1843.

GERMANY.—Treaty between Her Majesty and the Emperor of Germany for the mutual surrender of criminals. Signed, at Brussels, 14th May, 1872. Ratifications exchanged at Brussels, 11th June, 1872. Published in the *Canada Gazette*, December 28th, 1872.

ITALY.—Treaty between Her Majesty and the King of Italy for the mutual surrender of fugitive criminals. Signed, at Rome, February 5th, 1873. Published in the *Canada Gazette*, May 23rd, 1873.

NETHERLANDS.—Treaty between Her Majesty and the King of the Netherlands for the mutual extradition of fugitive criminals. Dated, June 19th, 1874. Published in the *Canada Gazette*, September 19th, 1874.

SWEDEN AND NORWAY.—Treaty between Her Majesty and the King of Sweden and Norway for the mutual extradition of fugitive criminals. Dated, June 26th, 1873. Published in the *Canada Gazette*, November 15th, 1873.



37-38 VICTORIA.

CHAP. 27.

An Act to regulate the Sentences imposed by Colonial Courts where jurisdiction to try is conferred by Imperial Acts.

[30*th June*, 1874.]

Preamble.

WHEREAS by certain Acts of Parliament jurisdiction is conferred on courts in Her Majesty's colonies to try persons charged with certain crimes or offences, and doubts have arisen as to the proper sentences to be imposed upon conviction of such persons; and it is expedient to remove such doubts:—

Be it enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:—

Short title.

1. This Act may be cited for all purposes as "The Courts (Colonial) Jurisdiction Act, 1874."

Definition of term "colony."

2. For the purposes of this Act,—

The term "colony" shall not include any places within the United Kingdom, the Isle of Man, or the Channel Islands but shall include such territories as may for the time being be vested in Her Majesty by virtue of an Act of Parliament for the Government of India, and any plantation

plantation, territory, or settlement situate elsewhere within Her Majesty's dominions, and subject to the same local government; and for the purposes of this Act, all plantations, territories, and settlements under a central legislature shall be deemed to be one colony under the same local government.

At trials in any colonial courts by virtue of Imperial Acts, courts empowered to pass sentences as if crimes had been committed in the colony.

3. When, by virtue of any Act of Parliament now or hereafter to be passed, a person is tried in a court of any colony for any crime or offence committed upon the high seas or elsewhere out of the territorial limits of such colony and of the local jurisdiction of such court, or if committed within such local jurisdiction made punishable by that Act, such person shall, upon conviction, be liable to such punishment as might have been inflicted upon him if the crime or offence had been committed within the limits of such colony and of the local jurisdiction of the court, and to no other, anything in any Act to the contrary notwithstanding: Provided always that if the crime or offence is a crime or offence not punishable by the law of the colony in which the trial takes place, the person shall, on conviction, be liable to such punishment (other than capital punishment) as shall seem to the court most nearly to correspond to the punishment to which such person would have been liable in case such crime or offence had been tried in England.

OTTAWA: Printed by BROWN CHAMBERLIN, Law Printer (for Canada) to the Queen's Most Excellent Majesty.

ACTS

OF THE PARLIAMENT

OF THE

DOMINION OF CANADA

RELATING TO

CRIMINAL LAW

AND TO

PROCEDURE IN CRIMINAL CASES;

Passed in the 1st, 2nd, 3rd, 4th and 5th Sessions of the 1st Parliament; in the 1st Session of the 2nd Parliament and the 1st Session of the 3rd Parliament of Canada.

OTTAWA:

PRINTED BY BROWN CHAMBERLIN, LAW PRINTER TO THE QUEEN'S MOST EXCELLENT MAJESTY.

1874.

NOTE.

This volume is a reprint of such Statutes of the Parliament of Canada, passed from 1867 to 1874 inclusive, as have reference exclusively (or almost entirely so) to Criminal Law or Procedure.

Being reprints, no alterations have been made where sections have been amended or repealed. Any amending or repealing Acts will be found in the volume.

It must be noted also that very many of the General Statutes of Canada, passed during the same period, have penal clauses inserted in them. Such clauses are not to be found in this volume. For access to them, reference must be had to the volume of Statutes of each year, in which such Statutes appear at length.



31 VICTORIA.

CHAP. 1.

An Act respecting the Statutes of Canada.

[*Assented to 21st December*, 1867.]

Preamble.

HER Majesty, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows:—

FORM OF ENACTING.

Form of enacting clause.

1. The following words may be inserted in the Preambles of Statutes and shall indicate the authority by virtue of which they are passed: "Her Majesty, by and with the advice and "consent of the Senate and House of Commons of Canada, "enacts as follows:"

Other clauses to follow in concise form.

2. After the insertion of the words aforesaid, which shall follow the setting forth of the considerations or reasons upon which the law is grounded, and which shall with these considerations or reasons constitute the entire Preamble, the various clauses of the Statute shall follow in a concise and enunciative form.

INTERPRETATION.

The interpretation clauses to apply to all Acts hereafter passed.

3. This section and the fourth, fifth, sixth, seventh and eighth sections of this Act, and each provision thereof, shall extend and apply to every Act passed in the Session held in this thirtieth* year of Her Majesty's reign, and in any future Session of the Parliament of Canada, except in so far as the provision is inconsistent with the intent and object of such Act, or the interpretation which such provision would give to any word, expression or clause is inconsistent with the context,—and except in so far as any provision thereof is in any such Act declared not applicable thereto;—Nor shall the omission in any Act of a declaration that the "Interpretation Act" shall apply thereto, be construed to prevent its so applying, although such express declaration may be inserted in some other Act or Acts of the same Session.

4.

* See Chap. 28.

Date of Royal assent to be endorsed on every Act.

4. The Clerk of the Senate shall endorse on every Act of the Parliament of Canada, immediately after the title of such Act, the day, month and year when the same was by the Governor General assented to in Her Majesty's name, or reserved by him for the signification of Her Majesty's pleasure thereon,—and in the latter case, the Clerk of the Senate shall also endorse thereon the day, month and year when the Governor General has signified either by speech or message to the Senate and House of Commons, or by Proclamation, that the same was laid before Her Majesty in Council, and that Her Majesty was pleased to assent to the same;—And such endorsement shall be taken to be a part of such Act, and the date of such Assent or Signification, as the case may be, shall be the date of the commencement of the Act, if no later commencement be therein provided.

Effect of such endorsement.

Every Act may be amended during session in which it passes.

5. Any Act of the Parliament of Canada may be amended, altered or repealed by any Act to be passed in the same Session thereof.

How enactments shall be construed.

6. In construing this or any Act of the Parliament of Canada, unless it is otherwise provided, or there be something in the context or other provisions thereof indicating a different meaning or calling for a different construction:

To apply to the whole Dominion.

1. The enactments in any Act apply to the whole Dominion of Canada;

Application of expressions in present tense.

2. The Law is to be considered as always speaking, and whenever any matter or thing is expressed in the present tense, the same is to be applied to the circumstances as they arise, so that effect may be given to each Act and every part thereof according to its spirit, true intent and meaning;

"Shall" and "may."

3. The word "shall" is to be construed as imperative, and the word "may" as permissive;

"Herein"

4. Whenever the word "herein" is used in any section of an Act, it is to be understood to relate to the whole Act and not to that section only;

Interpretation of certain words.

7. Subject to the limitations aforesaid,—in every Act of the Parliament of Canada, to which this section applies:—

"Her Majesty," &c.

First. The words "Her Majesty," "the Queen," or "the Crown," shall mean—Her Majesty, Her Heirs and Successors, Sovereigns of the United Kingdom of Great Britain and Ireland;

"Governor," &c.

Secondly. The words "Governor," "Governor of Canada," "Governor General," or "Governor in Chief," shall mean—the

the Governor General for the time being of Canada, or other the Chief Executive Officer or Administrator for the time being carrying on the Government of Canada on behalf and in the name of the Queen by whatever title he is designated.

"Governor in Council," &c.

Thirdly. The words "Governor in Council," or "Governor General in Council," shall mean—the Governor General of Canada, or person administering the government of Canada for the time being, acting by and with the advice of, or by and with the advice and consent of, or in conjunction with, the Queen's Privy Council for Canada;

"Lieutenant Governor," &c.

Fourthly. The words "Lieutenant-Governor" shall mean the Lieutenant-Governor for the time being, or other Chief Executive Officer or Administrator for the time being, carrying on the Government of the Province or Provinces of the Dominion indicated by the Act, by whatever title he is designated;

"Lieutenant Governor in Council," &c.

Fifthly. The words "Lieutenant-Governor in Council" shall mean the Lieutenant-Governor or person administering the Government of the Province indicated by the Act, for the time being, acting by and with the advice of, or by and with the advice and consent of, or in conjunction with the Executive Council of the said Province;

"United Kingdom," "United States," names of places, &c.

Sixthly. The words "the United Kingdom," shall mean the United Kingdom of Great Britain and Ireland;—and the words "the United States" shall mean the United States of America;—And generally, the name commonly applied to any country, place, body, corporation, society, officer, functionary, person, party or thing, shall mean such country, place, body, corporation, society, officer, functionary, person, party or thing, although such name is not the formal and extended designation thereof;

"Proclamation."

Seventhly. The word "Proclamation" means a Proclamation under the Great Seal, and the expression "Great Seal" means the Great Seal of Canada;

Governor acting by Proclamation.

Eighthly. When the Governor is authorized to do any act by Proclamation, such Proclamation is understood to be a Proclamation issued under an order of the Governor in Council, but it shall not be necessary that it be mentioned in the Proclamation that it is issued under such order;

"County."

Ninthly. The word "County" includes two or more counties united for purposes to which the enactment relates;

Tenthly.

Number and gender.

Tenthly. Words importing the singular number or the masculine gender only, shall include more persons, parties or things of the same kind than one, and females as well as males, and the converse;

"Person."

Eleventhly. The word "person," shall include any body corporate and politic, or party, and the heirs, executors, administrators or other legal representatives of such person, to whom the context can apply according to the law of that part of Canada to which such context extends;

"Writing." "written."

Twelfthly. The words "writing," "written," or any term of like import, shall include words printed, painted, engraved, lithographed, or otherwise traced or copied;

"Now" or "next."

Thirteenthly. The word "now" or "next" shall be construed as having reference to the time when the Act was presented for the Royal Assent;

"Month."

Fourteenthly. The word "month" shall mean a calendar month;

"Holiday."

Fifteenthly. The word "holiday" shall include Sundays, New Year's Day, the Epiphany, the Annunciation, Good-Friday, the Ascension; *Corpus Christi*, St. Peter and St. Paul's Day, All Saints Day, Conception Day, Easter Monday, Ash Wednesday, Christmas Day, the Birth day of the reigning Sovereign, and any day appointed by Proclamation for a General Fast or Thanksgiving;

"Oath."

"Sworn."

"Affirmed."

Sixteenthly. The word "oath" shall be construed as meaning a solemn affirmation whenever the context applies to any person and case by whom and in which a solemn affirmation may be made instead of an oath, and in like cases the word "sworn" shall include the word "affirmed":—And in every case where an oath or affirmation is directed to be made before any person or officer, such person or officer shall have full power and authority to administer the same and to certify its having been made;—

Perjury.

And the wilful making of any false statement in any such oath or affirmation, shall be wilful and corrupt perjury,—and the wilful making of any false statement in any declaration required or authorized by any Act, shall be a misdemeanor punishable as wilful and corrupt perjury;

"Sureties." "Security."

Seventeenthly. The word "sureties" shall mean sufficient sureties, and the word "security" shall mean sufficient security, and where these words are used, one person shall be sufficient therefor unless otherwise expressly required.

Eighteenthly.

Eighteenthly. The words "Superior Courts" shall denote in the Province of Ontario, the Court of Queen's Bench, the Court of Common Pleas and the Court of Chancery in the said Province; in the Province of Quebec the said words shall denote the Court of Queen's Bench and the Superior Court in and for the said Province; and in the Provinces of Nova Scotia and New Brunswick the said words shall denote the Supreme Court in and for each of the said Provinces respectively; "Superior Courts."

Nineteenthly. The words "Registrar" or "Register" in any Act, applying to the whole Dominion, shall mean and include indifferently Registrars and Registers in the several Provinces constituting the Dominion, and their Deputies, respectively; "Registrar," "Register."

Twentiethly. Any wilful contravention of any Act, which is not made any offence of some other kind, shall be a misdemeanor, and punishable accordingly; Contravention of Acts.

Twenty-firstly. Whenever any wilful contravention of any Act is made an offence of any particular kind or name, the person guilty of such contravention shall, on conviction thereof, be punishable in the manner in which such offence is by law punishable; Punishment for contravention.

Twenty-secondly. Whenever any pecuniary penalty or any forfeiture is imposed for any contravention of any Act,—then, if no other mode be prescribed for the recovery thereof, such penalty or forfeiture shall be recoverable with costs by civil action or proceeding at the suit of the Crown only, or of any private party suing as well for the Crown as for himself,—in any form allowed in such case by the law of that Province where it is brought,—before any Court having jurisdiction to the amount of the penalty in cases of simple contract,—upon the evidence of any one credible witness other than the plaintiff or party interested; And if no other provision be made for the appropriation of such penalty or forfeiture, one half thereof shall belong to the Crown, and the other half shall belong to the private plaintiff, if any there be, and if there be none, the whole shall belong to the Crown; Recovery of penalties when no other mode is prescribed. Appropriation.

Twenty-thirdly. Any duty, penalty, or sum of money, or the proceeds of any forfeiture, which is by any Act given to the Crown, shall, if no other provision be made respecting it, form part of the Consolidated Revenue Fund of Canada and be accounted for and otherwise dealt with accordingly; Crown's share when not otherwise appropriated to form part of Con. Rev. Fund.

Twenty-fourthly.

Paying and accounting for moneys appropriated by statute.

Twenty-fourthly. If any sum of the public money be, by any Act appropriated for any purpose or directed to be paid by the Governor General,—then, if no other provision be made respecting it, such sum shall be payable under Warrant of the Governor General directed to the Receiver General, out of the Consolidated Revenue Fund of Canada; And all persons entrusted with the expenditure of any such sum or any part thereof, shall account for the same in such manner and form, with such vouchers, at such periods and to such Officer, as the Governor General may direct;

"Magistrate" "Two Justices."

Twenty-fifthly. The word "Magistrate" shall mean a Justice of the Peace; the words "two Justices," shall mean two or more Justices of the Peace, assembled or acting together;—And if anything is directed to be done by or before a Magistrate or a Justice of the Peace, or other Public Functionary or Officer, it shall be done by or before one whose jurisdiction or powers extend to the place where such thing is to be done: And whenever power is given to any person, officer or functionary to do or to enforce the doing of any act or thing, all such powers shall be understood to be also given as are necessary to enable such person, officer or functionary to do or enforce the doing of such act or thing.

Power to do anything to include all necessary powers for doing it.

Imprisonment where to be, when no special place is mentioned.

Twenty-sixthly. If in any Act, any party is directed to be imprisoned or committed to prison, such imprisonment or committal shall, if no other place be mentioned or provided by law, be in or to the common gaol of the locality in which the order for such imprisonment is made, or if there be no common gaol there, then in or to that common gaol which is nearest to such locality; and the keeper of any such common gaol shall receive such person, and him safely keep and detain in such common gaol under his custody until discharged in due course of Law, or bailed in cases in which bail may by Law be taken;

Words giving power to appoint include power to remove.

Twenty-seventhly. Words authorizing the appointment of any public officer or functionary, or any deputy, shall include the power of removing him, re-appointing him, or appointing another in his stead, in the discretion of the authority in whom the power of appointment is vested;

Directions to public officer, to apply to his successors and his Deputy.

Twenty eighthly. Words directing or empowering a public officer or functionary to do any act or thing, or otherwise applying to him by his Name of Office, shall include his successors to such Office, and his or their lawful Deputy;

Appointments by Governor to be during pleasure.

Twenty-ninthly. All officers now appointed or hereafter to be appointed by the Governor General whether by Commission or otherwise shall remain in office during pleasure only,

only, unless otherwise expressed in their Commissions or appointments.

Words constituting a corporation to vest certain powers in it.

Thirtiethly. Words making any association or number of persons a corporation or body politic and corporate, shall vest in such corporation, power to sue and be sued, contract and be contracted with, by their corporate name, to have a common seal, and to alter or change the same at their pleasure, and to have perpetual succession, and power to acquire and hold personal property or moveables for the purposes for which the corporation is constituted, and to alienate the same at pleasure; and shall also vest in any majority of the members of the Corporation the power to bind the others by their acts; and shall exempt the individual members of the Corporation from personal liability for its debts or obligations or acts, provided they do not contravene the provisions of the Act incorporating them: But no Corporation shall carry on the business of banking unless when such power is expressly conferred on them by the Act creating such Corporation;

Slight deviation from forms not to invalidate.

Thirty-firstly. Where forms are prescribed slight deviations therefrom not affecting the substance or calculated to mislead shall not vitiate them.

Power to make by-laws, what included by.

Thirty-secondly. Where power to make by-laws, regulations, rules or orders is conferred, it shall include the power to alter or revoke the same and make others.

Acts not to affect the Crown, unless specially declared to do so.

Thirty-thirdly. No provision or enactment in any Act, shall affect in any manner or way whatsoever, the rights of Her Majesty, Her Heirs or Successors, unless it is expressly stated therein that Her Majesty shall be bound thereby; nor if such Act be of the nature of a private Act, shall it affect the rights of any person or of any body politic, corporate or collegiate, such only excepted as are therein mentioned or referred to.

As to Acts of private nature

Power always reserved to Parliament to repeal or amend any Act.

Thirty-fourthly. Every Act shall be so construed as to reserve to Parliament the power of repealing or amending it, and of revoking, restricting or modifying any power, privilege or advantage thereby vested in or granted to any person or party, whenever such repeal, amendment, revocation, restriction or modification is deemed by Parliament to be required for the public good; And unless it is otherwise expressly provided in any Act passed for chartering any Bank, it shall be in the discretion of the Parliament at any time thereafter to make such provisions and impose such restrictions with respect to the amount and description of notes which may be issued by such Bank, as to Parliament appears expedient.

As to Bank Charters.

Thirty-fifthly.

Effect of repeal of Act on persons acting under it.

Thirty-fifthly. Where any Act is repealed wholly or in part and other provisions substituted, all officers, persons, bodies politic or corporate acting under the old law shall continue to act as if appointed under the new law, until others are appointed in their stead; and all proceedings taken under the old law shall be taken up and continued under the new law when not inconsistent therewith; and

Not to affect certain proceedings.

all penalties and forfeitures may be recovered and all proceedings had in relation to matters which have happened before the repeal in the same manner as if the law were still in force, pursuing the new provisions as far as they can be adapted to the old law.

As to acts, &c., done before repeal.

Thirty-sixthly. The repeal of an Act at any time shall not affect any act done or any right or right of action existing, accruing, accrued or established or any proceedings commenced in a civil cause, before the time when such repeal shall take effect; but the proceedings in such case shall be conformable when necessary to the repealing Act.

Offences committed and penalties incurred not affected by repeal.

Thirty-seventhly. No offence committed and no penalty or forfeiture incurred and no proceeding pending under any Act at any time repealed shall be affected by the repeal, except that the proceedings shall be conformable when necessary to the repealing Act, and that where any penalty, forfeiture or punishment shall have been mitigated by any of the provisions of the repealing Act, such provisions shall be extended and applied to any judgment to be pronounced after such repeal.

All Acts to be deemed Public Acts, as regards pleading.

Thirty-eighthly. Every Act shall, unless by express provision it is declared to be a Private Act, be deemed to be a Public Act, and shall be judicially noticed by all Judges, Justices of the Peace and others without being specially

Proof of Acts.

pleaded;—And all copies of Acts, public or private, printed by the Queen's Printer, shall be evidence of such Acts and of their contents, and every copy purporting to be printed by the Queen's Printer shall be deemed to be so printed, unless the contrary be shewn;

Preamble to be a part of Act.

Thirty-ninthly. The Preamble of every such Act as aforesaid shall be deemed a part thereof intended to assist in explaining the purport and object of the Act;—And every Act

All Acts remedial, and to be construed as such.

and every provision or enactment thereof, shall be deemed remedial, whether its immediate purport be to direct the doing of any thing which Parliament deems to be for the public good or to prevent or punish the doing of any thing which it deems contrary to the public good,—and shall accordingly receive such fair, large and liberal construction and interpretation as will best ensure the attainment of the object

object of the Act and of such provision or enactment according to their true intent, meaning and spirit.

Applicable Rules of construction not excluded.

Fortiethly. Nothing in this Section shall exclude the application to any Act, of any Rule of Construction applicable thereto, and not inconsistent with this Section.

Provisions herein to apply to this Act.

Forty-firstly. The provisions of this Act shall apply to the construction thereof, and to the words and expressions used therein.

Acts to be done by more than two.

8. When any act or thing is required to be done by more than two persons, a majority of them may do it.

[The subsequent sections of this Act have no reference to Criminal Law or Procedure.]

CHAP. 14.

An Act to protect the inhabitants of Canada against lawless aggressions from subjects of Foreign Countries at Peace with Her Majesty.

[*Assented to 21st December*, 1867.]

Preamble.

WHEREAS in and by the ninety-eighth chapter of the Consolidated Statutes for Upper Canada, and further by an Act made and passed in the Session of Parliament of the late Province of Canada, held in the twenty-ninth and thirtieth years of Her Majesty's reign, and chaptered four, certain provisions are made for the protection of the inhabitants of that part of the said late Province of Canada called Upper Canada, against lawless aggressions from Subjects of Foreign Countries at Peace with Her Majesty; And whereas in and by two several Acts made and passed in the said Session of Parliament of the late Province of Canada, held in the twenty-ninth and thirtieth years of Her Majesty's reign, and chaptered two and three respectively, certain provisions are made for the protection of the inhabitants of that part of the late Province of Canada called Lower Canada, against similar lawless aggressions; And whereas it is expedient to continue the operation of the said Acts respectively, and that similar provisions be enacted in respect to the Dominion of Canada:

Her Majesty, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows:—

Con. Stat. U. C., chap. 98, and Acts of Can-

1. The ninety-eighth chapter of the Consolidated Statutes for Upper Canada, the said Act made and passed in the Session

ada, 29, 30 Vict. cc. 2, 3 and 4, extended.

Session of Parliament of the late Province of Canada, held in the twenty-ninth and thirtieth years of Her Majesty's reign, and chaptered four,—and the said two several Acts made and passed in the said Session of Parliament of the late Province of Canada, held in the twenty-ninth and thirtieth years of Her Majesty's reign, and chaptered two and three respectively, are hereby extended and the provisions thereof declared to be in force throughout Canada as follows, that is to say:—

Citizens or subjects of a foreign power taken in arms in Canada may be tried and sentenced by a Militia Court Martial.

2. In case any person, being a citizen or subject of any Foreign State or Country at peace with Her Majesty, be or continues in arms against Her Majesty, within Canada, or commits any act of hostility therein, or enters Canada with design or intent to levy war against Her Majesty, or to commit any felony therein, for which any person would, by the laws in force in any Province of Canada in which such offence is committed, be liable to suffer death, then the Governor may order the assembling of a Militia General Court Martial for the trial of such person, agreeably to the Militia Laws in force in such Province; and upon being found guilty by such Court Martial of offending against this Act, such person shall be sentenced by such Court Martial to suffer death, or such other punishment as shall be awarded by the Court.

Subjects of Her Majesty in Canada levying war in company with foreigners, or aiding them in so doing, may be tried and sentenced in the same manner.

3. If any subject of Her Majesty, within Canada, levies war against Her Majesty, in company with any of the subjects or citizens of any Foreign State or Country then at peace with Her Majesty, or enters Canada in company with any such subjects or citizens with intent to levy war on Her Majesty, or to commit any such act of felony as aforesaid, or if, with the design or intent to aid and assist, he joins himself to any person or person whatsoever, whether subjects or aliens, who have entered Canada with design or intent to levy war on Her Majesty, or to commit any such felony within the same, then such subject of Her Majesty may be tried and punished by a Militia Court Martial, in like manner as any citizen or subject of a Foreign State or Country at peace with Her Majesty, is liable under this Act to be tried and punished.

Her Majesty's subjects or foreigners offending against this Act to be guilty of felony and punishable accordingly.

4. Every subject of Her Majesty and every citizen or subject of any Foreign State or Country, who has at any time heretofore offended, or may at any time hereafter offend against the provisions of this Act, is and shall be held to be guilty of felony, and may, notwithstanding the provisions hereinbefore contained, be prosecuted and tried in any county or district of the Province in which such offence was committed before any Court of competent jurisdiction, in the

the same manner as if the offence had been committed in such county or district, and upon conviction shall suffer death as a felon.

Sentence may be carried out in Ontario notwithstanding Con. Stat. U. C., chap. 113.

5. In case any person shall be prosecuted and tried in the Province of Ontario under the provisions of the next preceding section and found guilty, it shall and may be lawful for the Court before which such trial shall have taken place, to pass sentence of death upon such person, to take effect at such time as the Court may direct, notwithstanding the provisions of an Act of the Consolidated Statutes for Upper Canada, intituled: "*An Act respecting New Trials and Appeals and Writs of Error in Criminal cases in Upper Canada.*"

CHAP. 15.

An Act to prevent the unlawful training of persons to the use of arms, and the practice of Military evolutions: and to authorize Justices of the Peace to seize and detain arms collected or kept for purposes dangerous to the public peace.

[*Assented to 21st December*, 1867.]

HER Majesty, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows:—

Meetings for drill, &c., without lawful authority prohibited.

1. All meetings and assemblies of persons for the purpose of training or drilling themselves, or of being trained or drilled to the use of arms, or for the purpose of practising Military exercises, movements or evolutions, without lawful authority for so doing, shall be and are hereby prohibited, and declared unlawful, as dangerous to the peace and security of Her Majesty's liege subjects, and of Canada; and every person who shall be present at or shall attend any such meeting or assembling for the purpose of training any other person or persons to the use of arms or to the practice of military exercises, movements or evolutions, or who, without lawful authority for so doing, shall train or drill any other person or persons to the use of arms, or to the practice of military exercises, movements or evolutions, or who shall aid or assist therein, being legally convicted thereof shall be liable to be imprisoned in a Provincial Penitentiary for the term of two years, or to be punished by fine and imprisonment in any of the common jails of any of the Provinces of Canada for a period not less than two years, in the discretion of the Court in which such conviction shall be had; and every person who shall attend or be present at any such meeting or assembly, for the purpose of being or who shall

Punishment of persons acting as instructors at such meetings.

And of persons receiving instructions.

shall at any such meeting or assembly be trained or drilled to the use of arms, or the practice of military exercises, movements or evolutions, being legally convicted thereof shall be liable to be punished by fine and imprisonment not exceeding two years, in the discretion of the Court before which such conviction shall be had.

Such meetings may be dispersed and persons attending them arrested, and committed for trial if not bailed.

2. It shall be lawful for any Justice of the Peace, or for any Constable or Police Officer, or for any person acting in their aid or assistance, to disperse any such unlawful meeting or assembly as aforesaid, and to arrest and detain any person present at or aiding, assisting or abetting any such assembly or meeting as aforesaid; and it shall be lawful for the Justice of the Peace who shall arrest any such person or before whom any person so arrested shall be brought, to commit such person for trial for such offence under the provisions of this Act, unless such person can and shall give bail for his appearance at the next Court of Oyer and Terminer and general jail delivery, if in either of the Provinces of Ontario, Nova Scotia or New Brunswick, or at the next term or sitting of the Court of Queen's Bench in the exercise of its criminal jurisdiction, if in the Province of Quebec, to answer to any indictment which may be preferred against him for any such offence against this Act.

Arms or ammunition kept for any unlawful purpose may be seized and detained.

3. It shall be lawful for any Justice of the Peace, upon information on oath of one or more credible witness or witnesses, that any pike, pike head, spear, dirk, dagger, sword, pistol, gun, rifle or other weapon, gunpowder, lead, cartridges, bullets or other ammunition or munitions of war, are for any purpose dangerous to the public peace, in the possession of any person, or in any house or place, to issue his warrant to any Constable or any other Peace Officer, to search for and seize any such pike, pike head, spear, dirk, dagger, sword, pistol, gun, rifle, or other weapon, gunpowder, lead, cartridges, bullets, or other ammunition or munitions of war, being in the possession of any such person, or in any such house or place as aforesaid, and to arrest any person having such possession as aforesaid; and in case admission into such house or place be refused, or not obtained within a reasonable time after it shall have been first demanded, to enter by force, by day or by night, into every such house or place whatsoever, and to detain or cause to be detained such person, and to keep in safe custody, in such place as the said Justice shall appoint and direct, the arms and weapons, ammunition or munitions of war, so found or seized as aforesaid, unless the owner thereof shall prove, to the satisfaction of such Justice, that such arms or weapons, ammunition or munitions of war, were not kept for any purpose dangerous to the public peace; and any such person

And the person having them may be arrested.

person having the possession or custody of any such arms, weapons, ammunition or munitions of war, and being so arrested, shall be brought before any Justice of the Peace, and may be dealt with, tried and punished in the same manner as is provided for persons arrested and tried under the fifth section of this Act. How dealt with.

4. Provided always, that it shall be lawful for any person from whom any such arms or weapons, ammunition or munitions of war, shall be so taken as last aforesaid, in case the Justice of the Peace upon whose warrant the same shall have been taken, upon application made for that purpose, refuse to restore the same, to apply to the next General or Quarter Sessions of the Peace, or in the Province of Quebec, in any district in which no such Court may then be held, to any Judge of the Court of Queen's Bench or of the Superior Court, upon giving ten days previous notice of such application to such Justice for the restitution of such arms or weapons, or any part thereof; and the Justices assembled at such General Quarter Sessions of the Peace, or such Judge of the Court of Queen's Bench or of the Superior Court, shall make such order for the restitution or safe custody of such arms or weapons, or any part thereof, as upon such application shall appear to them or him to be proper. Claims for restitution of such arms, &c., how to be decided upon.

5. It shall be lawful for any Justice of the Peace, or for any Constable, Peace Officer or other person acting under the Warrant of any Justice of the Peace, or for any person acting with or in aid of any Justice of the Peace, or of any Constable or other Peace Officer, having such warrant as aforesaid, to arrest and detain any person found carrying any such arms, or weapons as aforesaid, in such manner and at such times as, in the judgment of such Justice of the Peace, to afford just grounds of suspicion that the same are for purposes dangerous to the public peace; and it shall be lawful for the justice who shall arrest any such person, or before whom any person arrested upon such warrant shall be brought, to commit such person for trial for a misdemeanor; and such person shall be liable to be tried for a misdemeanor for carrying such arms or weapons aforesaid, and on conviction shall be punished by fine or imprisonment or both in the discretion of the Court trying him for such offence; but any such person may before conviction give good and sufficient bail for his appearance at the next Assizes or General Quarter Sessions of the Peace, or in the Province of Quebec, in any District in which no Court of Quarter Sessions may then be held, at the next term of the Court of Queen's Bench in the exercise of its criminal jurisdiction, to answer to any indictment which may be preferred against him. Persons carrying arms for unlawful purposes may be arrested and committed and tried for misdemeanor. May be bailed.

All Justices of the Peace to have concurrent jurisdiction under this Act.

6. All Justices of the Peace in and for any District, County, City, Town or place, in Canada, shall have concurrent jurisdiction as Justices of the Peace, with the justices of any other District, County, City, Town or place, in all cases as to the carrying into execution the provisions of this Act, and as to all matters and things relating to the preservation of the public peace under this Act, as fully and effectually as if each of such justices was in the commission of the peace, or was *ex officio* a Justice of the Peace for each of such Districts, Counties, Cities, Towns or places.

Provision for protection of Justices and others acting under this Act.

7. Any action or suit which shall be brought or commenced against any Justice or Justices of the Peace, Constable, Peace Officer or other persons for any thing done or acted in pursuance of this Act, shall be commenced within six calendar months next after the fact committed, and not afterwards; and the venue shall be laid in either of the Provinces of Ontario, Nova Scotia or New Brunswick, and the action or suit shall be brought in the Province of Quebec, in the proper county, district or other judicial division, where the fact was committed, and not elsewhere; and the defendant or defendants may plead the general issue and give this Act and the special matter in evidence in any trial to be had thereupon; and if such action or suit be commenced or brought after the time hereby limited for bringing the same, or be brought or the venue laid in any other place than as aforesaid, then a verdict shall be found or judgment shall be given for the defendant or defendants; and in such case if the plaintiff or plaintiffs become non-suit or discontinue his, her or their action after appearance, or if the jury find a verdict or the Court give judgment for the defendant or defendants on the merits, or if upon demurrer, judgment be given against the plaintiff or plaintiffs, the defendant or defendants shall have double costs, and may recover the same in such and the same manner as any defendant can by law in like cases.

Double costs against plaintiff failing in his suit.

This act may be suspended and again brought into force.

8. The Governor in Council may, from time to time, by Proclamation, suspend the operation of this Act in any one of the Provinces of Canada or in any particular districts or district, counties, county or locality therein specified; and from and after the period specified in any such Proclamation the powers given by this Act shall be suspended in such Province or in such districts or district, counties, county or locality; but nothing herein contained shall prevent or be construed to prevent the Governor in Council from again declaring, by proclamation, that any such Province, districts or district, counties, county or locality shall be again subject to this Act and the powers hereby given, and

and upon such proclamation this Act shall be revived and in force accordingly.

9. No person shall be prosecuted for any offence done or committed against the provisions of this Act, unless such prosecution be commenced within six calendar months after the offence committed. Limitation of prosecutions.

CHAP. 28.

An Act to amend an Act intituled: *An Act respecting the Statutes of Canada.*

[*Assented to 22nd May*, 1868.]

Her Majesty, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows:—

1. The word "thirtieth" in the third* line of section three, of an Act passed in the thirty-first year of Her Majesty's reign, Chapter one, intituled: "*An Act respecting the Statutes of Canada*" shall be expunged and the word "thirty-first" shall be inserted instead thereof.

CHAP. 69.

An Act for the better security of the Crown and of the Government.

[*Assented to 22nd May*, 1868.]

WHEREAS it is expedient to assimilate the Statute Laws of the several Provinces of Quebec, Ontario, Nova Scotia, and New Brunswick, respecting offences affecting the security of the Crown and of the Government, and to amend and consolidate the same: Therefore, Her Majesty, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows:— Preamble.

1. Nothing herein contained shall lessen the force of or in any manner affect anything enacted by the statute passed in the twenty-fifth year of King Edward the Third, "*A declaration which offences shall be adjudged treason.*" Nothing herein to affect 25 Ed. 3, c. 2, Imp., s. 7.

2. Whosoever within Canada or without, compasses, imagines, invents, devises or intents death or destruction, or any bodily harm tending to death or destruction, maim or wounding, imprisonment or restraint of our Sovereign Lady the Queen, Her Heirs or Successors, and such compassings, Compassing the death of the Sovereign, treason.

*Fourth line in this edition.

passings, imaginations, inventions, devices or intentions, or any of them, expresses, utters, or declares, by publishing any printing or writing or by any overt act or deed, is guilty of treason, and shall suffer death.

If an officer or soldier corresponds with the enemy, he is guilty of treason.

3. If any Officer or Soldier in Her Majesty's army, holds correspondence with any rebel, or enemy of Her Majesty, or gives them advice or intelligence, either by letters, messages, signs or tokens, or in any manner of way whatsoever, or treats with such rebels or enemies, or enters into any condition with them without Her Majesty's license, or the license of the General, Lieutenant-General or Chief Commander, every such person so offending is guilty of treason, and shall suffer death.

Sentence to be pronounced in cases of treason.

4. In all cases of treason, the sentence or judgment to be pronounced against any person convicted and adjudged guilty thereof shall be, that he be hanged by the neck until he be dead.

Certain offences declared felonious, and to be punishable by imprisonment in the Penitentiary.

5. Whosoever, after the passing of this act, within Canada or without, compasses, imagines, invents, devises or intents to deprive or depose Our Most Gracious Lady the Queen, Her Heirs or Successors, from the style, honour, or royal name of the imperial crown of the United Kingdom, or of any other of Her Majesty's dominions or countries, or to levy war against Her Majesty, Her Heirs or Successors, within any part of the United Kingdom or of Canada, in order by force or constraint to compel her or them to change her or their measures or counsels, or in order to put any force or constraint upon, or in order to intimidate or overawe both Houses or either House of Parliament, of the United Kingdom or of Canada, or to move or stir any foreigner or stranger with force to invade the United Kingdom or Canada, or any other of Her Majesty's dominions or countries under the obeisance of Her Majesty, Her Heirs or Successors, and such compassings, imaginations, inventions, devices or intentions, or any of them, shall express, utter or declare by publishing any printing or writing, or by open and advised speaking, or by any overt act or deed, is guilty of felony, and shall be liable to be imprisoned in the Penitentiary for life or for any term not less than two years, or to be imprisoned in any other gaol or place of confinement for any term less than two years, with or without hard labour.

Time within which prosecution shall be commenced, warrant issued, &c.

6. No person shall be prosecuted for any felony by virtue of this Act in respect of such compassings, imaginations, inventions, devices or intentions as aforesaid, in so far as the same

same are expressed, uttered or declared by open and advised speaking only, unless information of such compassings, imaginations, inventions, devices and intentions and of the words by which the same were expressed, uttered or declared shall be given upon oath to one or more Justice or Justices of the Peace, within six days after such words have been spoken, and unless a warrant for the apprehension of the person by whom such words shall have been spoken shall be issued within ten days next after such information shall have been given as aforesaid; and no person shall be convicted of any such compassings, imaginations, inventions, devices or intention as aforesaid in so far as the same are expressed, uttered or declared by open or advised speaking as aforesaid, except upon his own confession in open Court, or unless the words so spoken shall be proved by two credible witnesses.

Words spoken must be proved by two witnesses.

7. It shall be lawful, in any indictment for any felony under this Act to charge against the offender any number of the matters, acts or deeds by which such compassings, imaginations, inventions, devices or intentions as aforesaid, or any of them shall have been expressed, uttered or declared.

In indictments more than one overt act may be charged.

8. If the facts or matters alleged in an indictment for any felony under this Act amount in law to treason, such indictment shall not by reason thereof be deemed void, erroneous, or defective, and if the facts or matters proved on the trial of any person indicted for felony under this Act amount in law to treason, such person shall not, by reason thereof, be entitled to be acquitted of such felony; but no person tried for such felony shall be liable to be afterwards prosecuted for treason upon the same facts.

Indictments for felony under this Act valid, though the facts may amount to treason.

9. In the case of every felony punishable under this Act, every principal in the second degree and every accessory before the fact, shall be punishable in the same manner as the principal in the first degree is by this Act punishable; and every accessory after the fact to any such felony, shall be liable to be imprisoned in any gaol or place of confinement other than the Penitentiary, for any term less than two years, with or without hard labour.

As to punishment of accessories.

10. This Act shall commence and take effect on the first day of January, in the year of our Lord, one thousand eight hundred and sixty-nine.

Commencement of this Act.

CHAP.

CHAP. 70.

An Act respecting Riots and Riotous Assemblies.

[*Assented to 22nd May*, 1868.]

Preamble.

WHEREAS, it is expedient to assimilate, amend and consolidate the laws in force in the several Provinces of Quebec, Ontario, Nova Scotia and New Brunswick, in relation to Riots and Riotous Assemblies, and to extend the same as so consolidated to all Canada: Therefore, Her Majesty, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows:—

Justices of the Peace may enjoin persons riotously assembled, to disperse.

1. In case any persons to the number of twelve or more, being unlawfully, riotously and tumultuously assembled together, to the disturbance of the public peace, be by proclamation, in the Queen's name, made in the form in this Act directed, by any one or more Justice or Justices of the Peace, or by the Sheriff of the District or County, or his Deputy Sheriff, or by the Mayor, or other head officer, or Justice of the Peace of any city or town corporate, where such persons are so assembled, required or commanded to disperse themselves, and peaceably to depart to their habitations, or to their lawful business,—and in case such persons to the number of twelve or more (notwithstanding such proclamation made) unlawfully, riotously and tumultuously remain or continue together by the space of one hour after such command or request, such persons or any of them so continuing together to the number of twelve or more, after such command or request, so made by proclamation, are severally guilty of felony, and shall be liable to be imprisoned in the penitentiary for life, or for any term not less than two years, or to be imprisoned in any other gaol or place of confinement, for any term less than two years.

Persons not obeying, guilty of felony.

Punishment.

Order and form of proclamation.

2. The order and form of the proclamation to be made by the authority of this Act shall be as follows, that is to say: The Justice of the Peace or other person authorized to make the said proclamation shall, among the said rioters or as near to them as he can safely come, with a loud voice command, or cause to be commanded, silence to be, while proclamation is making; and after that, shall openly and with a loud voice, make or cause to be made proclamation in these words, or like in effect:—

"Our Sovereign Lady the Queen chargeth and commandeth all persons being assembled immediately to disperse themselves, and peaceably to depart to their habitations or to

"to their lawful business, upon the pains contained in the "Act respecting Riots and Riotous Assemblies.—God save "the Queen."

Justices of the Peace, Sheriffs, Mayors, &c., to repair to place of riot, and there make Proclamation.

3. Each and every Justice of the Peace, Sheriff, Deputy Sheriff, Mayor and other head officer, within the limits of their respective jurisdictions shall, on notice or knowledge of any such unlawful, riotous and tumultuous assembly of persons to the number of twelve or more, resort to the place where such unlawful, riotous and tumultuous assembly is, and there make, or cause to be made, proclamation in manner aforesaid.

Consequence, if persons riotously assembled, do not disperse in obedience to the proclamation.

4. If twelve or more of the persons so unlawfully, riotously and tumultuously assembled, continue together, after proclamation made in manner aforesaid; and do not disperse themselves within one hour, then every Justice of the Peace, Sheriff, and Deputy Sheriff of the district or county where such assembly may be, and also every High and Petty Constable, and other peace officer within such district or county, and also every Mayor, Justice of the Peace, Sheriff and other head officer, High or Petty Constable, and other peace officer, of any city or town corporate where such assembly may be, and any person or persons commanded to assist such Justice of the Peace, Sheriff, or Deputy Sheriff, Mayor, Bailiff, or other head officer aforesaid (who may command all Her Majesty's subjects of age and ability to be assisting to them therein), shall seize and apprehend the persons so unlawfully, riotously and tumultuously continuing together, after proclamation made as aforesaid, and shall forthwith carry the persons so apprehended before one or more of Her Majesty's Justices of the Peace of the district, county or place where such persons are so apprehended, in order to their being proceeded against for such their offences according to law.

Apprehension of offenders.

Persons suppressing riot justified—even though death of a rioter may ensue.

5. If in the dispersing, seizing or apprehending or endeavouring to disperse, seize or apprehend any of the persons so unlawfully, riotously and tumultuously assembled, any such person happen to be killed, maimed or hurt, by reason of their resisting the persons dispersing, seizing or apprehending, or endeavoring to disperse, seize or apprehend them, then every such Justice of the Peace, Sheriff, Deputy Sheriff, Mayor, head officer, High or Petty Constable, or other peace officer, and all persons who were aiding or assisting them, or any of them, shall be free, discharged and indemnified, as well against the Queen's Majesty, as against all and every other person and persons, of or concerning the killing, maiming or hurting of any such person or persons

persons so unlawfully, riotously and tumultuously assembled as aforesaid.

Consequences of any person opposing peace officer and others suppressing riot.

6. If any person or persons with force and arms, wilfully and knowingly oppose, obstruct, or in any manner let, hinder or hurt, any person or persons who begin to proclaim, or go to proclaim, according to the proclamation hereby directed to be made, whereby such proclamation cannot be made, then every such person so opposing, obstructing, letting, hindering or hurting such person or persons so beginning or going to make such proclamation, as aforesaid, is guilty of felony, and shall be liable to be imprisoned in the penitentiary for life, or for any term not less than two years, or to be imprisoned in any other gaol or place of confinement for any term less than two years.

The same, if the making of the proclamation be prevented by force.

7. And every such person or persons so being unlawfully, riotously and tumultuously assembled, to the number of twelve or more, as aforesaid, to whom proclamation should or ought to have been made, if the same had not been hindered, as aforesaid, who, to the number of twelve or more, continue together, and do not disperse themselves within one hour after such let or hindrance so made, having knowledge thereof, are guilty of felony, and shall be liable to be imprisoned in the penitentiary for life, or for any term not less than two years, or to be imprisoned in any other gaol or place of confinement for any term less than two years.

Prosecutions for acts under this statute to be commenced within 12 months.

8. No person or persons shall be prosecuted for any offence or offences committed contrary to this Act, unless such prosecution be commenced within twelve months after the offence committed.

Commencement of Act.

9. This Act shall commence and take effect on the first day of January, in the year of our Lord one thousand eight hundred and sixty-nine.

CHAP. 71.

An Act respecting forgery, perjury, and intimidation in connection with the Provincial Legislatures and their Acts.

[*Assented to 22nd May*, 1868.]

Preamble.

HER Majesty, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows:—

Chapter 94 of Con. Stat. Can. extended to

1. The Act chapter ninety-four of the Consolidated Statutes of Canada, intituled: "*An Act respecting Forgery*," is

is hereby extended so as to apply as fully in each of the Provinces of Quebec and Ontario, as if it had been re-enacted at the time of the Union with the following extensions:— Ontario and Quebec.

1. The Great Seals mentioned in section one of the said Act shall include and mean the Great Seal of each of the said Provinces respectively; Great Seals.

3. The Seal at Arms mentioned in section two of the said Act shall include and mean the Seal at Arms of the Lieutenant Governor of each of the said Provinces respectively; Seals at Arms

4. All words mentioning or referring to the late Province of Canada, or the Legislature or Statutes thereof, shall include and mean each of the said Provinces, and the Legislatures and Statutes thereof respectively. Interpretation

Forgery of certain stamps to be felony and punished accordingly.

2. Whosoever forges, counterfeits or imitates or procures to be forged, counterfeited or imitated any stamp or stamped paper, issued or authorized to be used by any Act of the Parliament of Canada, or the Legislature of any of the Provinces of Quebec, Ontario, Nova Scotia or New Brunswick, by means whereof any duty thereby imposed, or any sum of money may be paid, or any part or portion of any such stamp, or knowingly uses, offers, sells or exposes to sale, any such forged, counterfeited or imitated stamp, or engraves, cuts, sinks or makes any plate, die or other thing whereby to make or imitate such stamp or any part or portion thereof, except by permission of any officer or person who, being duly authorized in that behalf by the Government of Canada, or of any of the Provinces aforesaid, may lawfully grant such permission—or, without such permission, has possession of any such plate, die or other thing, so unlawfully engraved, cut, sunk or made, or without such permission uses or has possession of any such plate, die or thing lawfully engraved, cut, sunk or made,—or tears off or removes from any instrument, on which a duty or sum of money is payable, any stamp by which such duty or sum of money has been wholly or in part paid, or removes from any such stamp any writing or mark indicating that it has been used for or towards the payment of any such duty or sum of money—shall be deemed guilty of felony, and shall on conviction be liable to be imprisoned in the penitentiary of the Province in which the offence was committed for any term not exceeding twenty-one years and not less than two years, or in any gaol or place of confinement for any term less than two years, with or without hard labour, and with or without solitary confinement.

Or having plates, dies, &c., in possession, &c.

Punishment.

3.

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Contravention of Provincial Acts, a misdemeanor.

3. Any wilful contravention of any Act of the Legislature of any of the Provinces within Canada, which is not made an offence of some other kind shall be a misdemeanor, and punishable accordingly.

Consequences of oath taken under Act of Provincial Legislature.

4. Any oath or solemn affirmation now or hereafter made, subscribed or administered under the authority of any such Act shall be as binding, and shall entail the same legal liabilities and the same consequences with respect to false swearing, perjury or subornation thereof, as if such oath or affirmation were made, subscribed or administered under the authority of an Act of the Parliament of Canada, or of any Act or law in force in such Province at the time of the Union.

Conspiracy to intimidate a Provincial legislative body a felony.

5. Whenever two or more persons confederate, combine or conspire to do any act of violence, in order to intimidate, or to put any force or constraint upon any Legislative Council, Legislative Assembly or House of Assembly in any one of the Provinces within Canada, each of such persons shall be

Punishment.

guilty of felony, and on being convicted thereof, shall be imprisoned in the penitentiary of the Province in which the offence was committed, for any time not less than two years nor more than fourteen years, or in any other prison for any period less than two years with or without hard labor.

CHAP. 72.

An Act respecting Accessories to and Abettors of indictable Offences.

[*Assented to 22nd May*, 1868]

Preamble.

WHEREAS it is expedient to assimilate, amend and consolidate the statute law of the several Provinces of Quebec, Ontario, Nova Scotia, and New Brunswick, relating to accessories to and abettors of indictable offences, and to extend the same as so consolidated to all Canada: Therefore, Her Majesty, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows:—

As to accessories before the fact.

Accessories before fact may be tried &c., as principals.

1. Whosoever becomes an accessory before the fact to any felony, whether the same be a felony at common law, or by virtue of any Act passed or to be passed, may be indicted, tried, convicted and punished in all respects as if he were a principal felon.

Accessories before fact may be indicted as such or

2. Whosoever counsels, procures or commands any other person to commit any felony, whether the same be a felony at

at common law, or by virtue of any Act passed or to be passed, is guilty of felony, and may be indicted, and convicted either as an accessory before the fact to the principal felony, together with the principal felon, or after the conviction of the principal felon, or may be indicted and convicted of a substantive felony, whether the principal felon has or has not been previously convicted, or is or is not amenable to Justice, and may thereupon be punished in the same manner as any accessory before the fact to the same felony, if convicted as an accessory, may be punished. as substantive felons.

3. In every felony, every principal in the second degree shall be punishable in the same manner as the principal in the first degree is punishable. Principals in the second degree.

As to accessories after the fact.

4. Whosoever becomes an accessory after the fact to any felony, whether the same be a felony at common law or by virtue of any Act passed or to be passed, may be indicted and convicted, either as an accessory after the fact to the principal felony, together with the principal felon, or after the conviction of the principal felon, or may be indicted and convicted of a substantive felony, whether the principal felon has or has not been previously convicted, or is or is not amenable to justice, and may thereupon be punished in like manner as any accessory after the fact to the same felony, if convicted as an accessory, may be punished. Accessories after the fact may be indicted as such or as substantive felons.

5. Every accessory after the fact to any felony (except where it is otherwise specially enacted), whether the same be a felony at common law, or by virtue of any Act passed, or to be passed, shall be liable to be imprisoned in any gaol or place of confinement other than the penitentiary, for any term less than two years, with or without hard labour; and it shall be lawful for the court, if it shall think fit, to require the offender to enter into his own recognizances, and to find sureties, both or either, for keeping the peace, in addition to such punishment: Provided that no person shall be imprisoned under this clause for not finding sureties for any period exceeding one year. Punishment of accessories after the fact. Proviso.

As to accessories generally.

6. If any principal offender is in any wise convicted of any felony, it shall be lawful to proceed against any accessory, either before or after the fact, in the same manner as if such principal felon had been attainted thereof, notwithstanding such principal felon dies or is pardoned or otherwise delivered before such attainder; and every such accessory Prosecution of accessory after principal convicted, &c.

accessory shall, upon conviction, suffer the same punishment as he would have suffered if the principal had been attainted.

Several accessories may be included in same indictment.

7. Any number of accessories at different times to any felony and any number of receivers at different times of property stolen at one time, may be charged with substantive felonies, in the same indictment, and may be tried together, notwithstanding the principal felon is not included in the same indictment, or is not in custody or amenable to justice.

Place of trial of accessories.

If offence wholly committed in Canada.

8. Where any felony has been wholly committed within Canada, the offence of any person who is an accessory, either before or after the fact, to such felony, may be dealt with, inquired of, tried, determined and punished by any Court which has jurisdiction to try the principal felony, or any felonies committed in any district, county, or place in which the act, by reason whereof such person shall have become such accessory, has been committed; and in every

In other cases.

other case the offence of any person who is an accessory, either before or after the fact, to any felony, may be dealt with, inquired of, tried, determined and punished by any Court which has jurisdiction to try the principal felony, or any felonies committed in any district, county or place in which such person is apprehended or is in custody, whether the principal felony has been committed on the sea or on the land, or begun on the sea and completed on the land, or begun on the land and completed on the sea, or whether within Her Majesty's dominions or without, or partly within Her Majesty's dominions and partly without: Provided

Proviso.

that no person once duly tried, either as an accessory before or after the fact, or for a substantive felony under the provisions hereinbefore contained, shall be liable to be afterwards prosecuted for the same offence.

As to Abettors in Misdemeanors.

Abettors in misdemeanors

9. Whosoever aids, abets, counsels or procures the commission of any misdemeanor, whether the same be a misdemeanor at common law, or by virtue of any Act, passed or to be passed, shall be liable to be tried, indicted and punished as a principal offender.

Commencement of Act.

10 This Act shall commence and take effect on the first day of January, one thousand eight hundred and sixty-nine.

CHAP.

CHAP. 73.

An Act respecting Police of Canada.

[*Assented to 22nd May*, 1868.]

Preamble.

HER Majesty, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows:—

Governor may appoint Commissioners of Police.

1. The Governor in Council may, from time to time, appoint by Commission under the Great Seal, one or more fit and proper persons to be and act as a Commissioner or Commissioners of Police within any one or more of the Provinces of Canada, or within any one or more of the districts or counties in any Province or within any temporary judicial district, or any provisional judicial district in Ontario.

Commissioners of Police may appoint Police Constables to act for certain purposes only.

2. The Governor in Council may, from time to time, direct and authorize any Commissioner of Police under this Act to appoint any fit and proper persons to serve as Police Constables under and within the jurisdiction of such Commissioner of Police; and such Commissioner may, at his pleasure, remove any such Police Constable, and every such Police Constable shall obey all lawful directions and be subject to the government of such Commissioner of Police, and shall be charged with all the powers, rights and responsibilities which belong by law to constables duly appointed in the Province, or district or county of the Province, in which they may be appointed, but for the purpose of carrying out the criminal laws, and other laws of the Dominion only.

Penalty for misconduct by Police Constables.

3. If any Police Constable appointed under the authority of this Act, be guilty of any disobedience of orders, neglect of duty, or any misconduct as such Police Constable, and be convicted thereof before any Commissioner of Police, Police Magistrate or Justice of the Peace, he shall forfeit a sum to be fixed by such Commissioner, Police Magistrate or Justice, not exceeding forty dollars and costs, and in default of immediate payment thereof, shall suffer imprisonment for any time not exceeding three months, unless such fine and costs be sooner paid; and any such person may be proceeded against by indictment for any offence committed by him as such constable, but not both by indictment and under this Act for the same offence.

Powers, &c., of Commissioners of Police, in

4. Every Commissioner of Police appointed under this Act for the purpose of carrying out the criminal laws and other

carrying out the laws of the Dominion.

other laws of the Dominion only, shall have and exercise within the Province or Provinces, or district or districts, or county or counties, or temporary judicial district or provisional judicial district of a Province for which he is appointed, all the powers and authority, rights and privileges by law appertaining to Police Magistrates of cities, in the same Province, and all the powers and authority, rights and privileges appertaining to Justices of the Peace generally, and shall be subject in all respects except as otherwise provided by this Act, to the requirements of the law of the Province in and for which, or any district or county in which he may be appointed, respecting Police Magistrates and the office of Justice of the Peace; but it shall not be necessary for any Commissioner of Police appointed under this Act to possess any property qualification or to be actually resident within any district, county, temporary judicial district or provisional judicial district of a Province for which he may be appointed.

Proviso: no property qualification, &c., required.

Duties of Commissioners.

5. Every such Commissioner of Police shall keep minutes of every proceeding had by and before him, and shall keep such accounts, make such returns and collect such information within his jurisdiction, and perform such other duties as the Governor may, from time to time, prescribe and require.

Regulations, pay and annual account to Parliament.

6. Every Commissioner of Police and every Police Constable appointed under this Act shall be subject to such regulations in respect to the order, management and disposition of the police, and shall receive such rates of pay or allowance as may, from time to time, be prescribed by the Governor in Council; and an account shall be laid before Parliament within the first two weeks after the meeting of each session, of the average number of men employed during each month of the year, and of the cost of pay, and of travelling expenses expended in respect thereof.

Appropriation of fines, penalties and forfeitures.

7. All moneys arising from penalties, forfeitures and fines imposed by any Commissioner of Police shall, if not directed by law to be otherwise appropriated, be from time to time paid to such Commissioner of Police, who shall account for the same and pay over or disburse the moneys arising therefrom at such times and in such manner and to such person or persons as the Governor may, from time to time, direct.

CHAP.

CHAP. 74.

An Act respecting persons in custody charged with High Treason or Felony.

[*Assented to 22nd May*, 1868.]

Preamble.

WHEREAS it is expedient to make provision for the safe custody of persons charged with High Treason or Felony: Therefore, Her Majesty, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows:—

Governor in Council may order the removal of such persons from one gaol to another, in case of insecurity of gaol, &c.

1. If from the insecurity or unfitness of any gaol of any county or district, for the safe custody of persons charged with the crimes of High Treason or Felony, or if from any other cause it shall seem expedient to the Governor in Council so to do, it shall be lawful for the Governor in Council to order that any person or persons charged with the said crimes, or either of them, confined in such gaol, shall be removed to any other gaol or any other county or district in the same Province, to be named in such order, there to be detained until discharged in due course of law, or removed for the purpose of trial to the gaol of the county or district in which the trial is to take place; and a copy of such order, certified by the Clerk of the Queen's Privy Council for Canada, or by any person acting as such clerk, shall be a sufficient authority to the sheriffs and gaolers of the counties or districts respectively named in such order to deliver over and to receive the bodies of any person or persons named in such order.

And direct Sheriff to remove them.

2. It shall be lawful for the Governor in Council to direct in any such order that the sheriff in whose custody the person or persons to be removed may then be, shall convey the said person or persons to the gaol of the county or district in which they are to be confined, and to direct the sheriff or gaoler of such county or district to receive the said person or persons, and to detain him or them until he or they shall be discharged in due course of law, or be removed for the purpose of trial to any other county or district.

Removal for trial into County where indictment is found.

3. If a true Bill for High Treason or Felony, except for Felony under the provisions of the Act of the present Session, chapter fourteen, shall afterwards be returned by any Grand Jury of the county or district from which any such person may have been removed, against any such person, it shall be lawful for the court into which such True Bill shall have been returned to make an order for the removal of any person against whom such bill shall have been found, from

from the gaol in which he shall then be confined, to the gaol of the county or district in which such Court may be sitting, for the purpose of his being tried in such county or district.

CHAP. 75.

An Act respecting Penitentiaries, and the Directors thereof, and for other purposes.

[*Assented to 22nd May*, 1868.]

Preamble. WHEREAS "*The British North America Act*, 1867," places the Penitentiaries of the Provinces forming the Dominion of Canada, under the control of the Government of Canada, and it is expedient to make provision for the proper management and maintenance of the same: Therefore, Her Majesty, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows:—

C. 110, C. S. C.—and 1. The Act passed by the legislature of the late Province of Canada, in the twenty-second year of Her Majesty's reign, being Chapter one hundred and ten of the Consolidated Statutes of the said Province, intituled: "*An Act respecting "Inspectors of Public Asylums, Hospitals, the Provincial "Penitentiary of Canada, and of all Common Gaols and "other Prisons*;"

C. 111, C. S. C. repealed. Also the Act passed by the said legislature in the same year of Her Majesty's reign, being Chapter one hundred and eleven of the Consolidated Statutes of the said Province, intituled: "*An Act respecting the Provincial Penitentiary "of Canada*," are hereby repealed;

N.S., 27 V. c. 22, and Also such parts of the Act passed by the legislature of the Province of Nova Scotia, in the twenty-seventh year of Her Majesty's reign, intituled: "*An Act for revising and con-"solidating the Statutes and Laws of the Province*," Part one, Title five, Chapter twenty-two,—and also such parts of the Act passed by the legislature of the Province of New Brunswick, in the seventeenth year of Her Majesty's reign, intituled: "*An Act to revise and consolidate the Public "Statutes of New Brunswick*," Part one, Title sixteen, Chapter ninety-one,—as relate to the Penitentiary in each of the said last mentioned Provinces and are inconsistent with the provisions of this Act, are hereby repealed.

N. B., 17 V. c. 91 repealed in part.

Effect of repeal limited. 2. The repeal of the said Acts and of parts of Acts above set forth shall not operate so as to revive any former Act, or any

any part or portion of any former Act, of which the said Acts or parts of Acts may have been an amendment or amendments, nor shall such repeal affect anything heretofore done under the said Acts or parts of Acts, nor any claim, suit or action arising therefrom and now pending in any Court of Law or Equity in virtue of such repealed Act or parts of Acts, but such thing, claim, suit or action shall remain the same as if this Act had not been passed.

DIRECTORS.

Governor to appoint directors, chairman and secretary their general powers and duties.

3. It shall be lawful for the Governor to appoint not more than three persons to be Directors, who, subject to the instructions they may from time to time receive from the Governor, shall have the control and management of all the Penitentiaries in Canada, and of such other Prisons, Hospitals, Asylums, and other public institutions, as may from time to time be ordered by the Governor in Council and announced by Proclamation in the *Canada Gazette*, and of all prisoners and other persons confined therein or inmates thereof; and it shall be lawful for the Governor to appoint one of such persons to be their Chairman, and one of them, or one other person to act as Secretary, and from time to time to remove any of such persons to be so appointed, and to appoint another or others in his or their stead.

Meetings, quorum, &c.

4. The Chairman shall preside at all meetings of the Directors at which he is present, and in case of his absence the senior Director shall act as Chairman; Any two of the Directors shall constitute a *quorum*, for all purposes whatsoever; and in case of a difference of opinion arising between such two at a meeting, held at any Penitentiary, upon a special matter affecting such Penitentiary only, the Warden thereof may be called in, at the joint request of the Directors then sitting, to decide between them; But in case of a difference of opinion arising at a meeting held by any two Directors at any place other than a Penitentiary, the question shall lie over until the third Director shall be present.

Difference of opinion.

Minutes of proceedings.

5. The Chairman shall keep a regular minute of the proceedings of every meeting, which shall be read at the next ensuing meeting, before any other business is taken up, and, when approved, shall be signed by the Chairman of the meeting at which the said minute is so approved.

Directors to be Justices of the Peace for certain purposes.

6. Every one of the Directors shall, by virtue of his office, without any property qualification, be a Justice of the Peace for any and every District, County, City, or Town, of Canada, but shall have power to act in matters connected with the Criminal Law of Canada only.

Responsibility &c., of directors.

7. The Directors shall be responsible for the system of discipline and management pursued in the several Penitentiaries, but they shall have no direct executive power in the administration or conduct of the affairs of those Institutions, except as is provided by this Act.

To make rules and regulations for certain purposes.

8. The Directors shall have power, and it shall be their duty, to make rules and regulations for the management, discipline and police of the Penitentiaries, and for the duties and conduct of the Wardens thereof, and of every other officer or class of officers or servants employed therein, and for the diet, clothing, maintenance, employment, instruction, discipline, correction, punishment and reward of convicts imprisoned therein, and to annul, alter or amend the same from time to time, subject to the approval of the Governor in Council, which rules and regulations so approved, the Wardens of the Penitentiaries, and every other officer and servant employed in or about the same, shall be bound to obey: Provided always, that until such rules and regulations are made as aforesaid, the rules and regulations existing in each Penitentiary at the passing of this Act shall remain in force; It shall also be the duty of the Directors to audit the accounts of the Wardens of the Penitentiaries, to inquire into all money transactions when requisite, exact a statement of all cash transactions every month, and to administer to the Wardens and Accountants, the following Oath:

Proviso.

Audit accounts.

Oath of accountant.

Form.

I, , Warden, and I, , Accountant, of the Penitentiary, make oath and say that the foregoing Statement of Revenue and Expenditure on account of the Penitentiary, for the month of 18 are true and correct.

Sworn before me, at the Penitentiary, the day of

Director.

POWERS OF THE DIRECTORS.

Special powers of directors.

9. For the better enabling the Directors efficiently to discharge the duties herein set forth, or at any time ordered by the Governor, they and each of them shall have power,—

Entry and examination of papers, &c.

1. At all times to enter into, and remain within any Penitentiary or other public institution placed under their control as aforesaid, and have access to every part and portion of the same, and examine all papers, documents, vouchers, records and books of every kind belonging thereto,—

Inquiries into conduct of officers, &c.

2. To investigate the conduct of any officer or servant employed in or about any Penitentiary, or other public institution as aforesaid, or of any person found within the precincts thereof; and for that purpose the Directors shall have power to summon before them, or any one or more of them, any person by *subpœna* issued by any one of them, and to examine such person upon oath, which oath the said Directors or any one of them shall have power to administer, whether the fact relate to a breach of the law of the land or of the rules of the prison, or to any matter affecting the interests of the institution, and to compel the production of papers and writings before them or any one or more of them; and if any person duly summoned shall neglect or refuse to appear, at the time and place specified in the *subpœna* upon him legally served, or shall refuse to give evidence or to produce the papers demanded of him, the Directors or any one or more of them, may cause the said person, by warrant under their or his hand, to be taken into custody and to be imprisoned in the common gaol of the locality, as for contempt of court, for a period not exceeding fourteen days.

Summoning of witnesses.

Penalty for not obeying summons.

SALARIES OF DIRECTORS.

Salaries as in Schedule.

10. The salaries of the Directors shall be as set forth in Schedule A., to this Act annexed.

ESTABLISHMENT OF PENITENTIARIES.

Penitentiaries described.

11. The Penitentiary situated near the City of Kingston, in the Province of Ontario, to be known as the Kingston Penitentiary, and the Penitentiary situated near the City of St. John, in the Province of New Brunswick, to be known as the St. John Penitentiary, and the Penitentiary situated near the City of Halifax, in the Province of Nova Scotia, to be known as the Halifax Penitentiary, together with all the land appertaining to the same, respectively, according to the respective metes and bounds thereof as now known and defined, and all the property thereon belonging to the same, are all and every one of them hereby declared to be Penitentiaries of Canada.

Governor may annex tracts of land to Penitentiaries as part thereof.

12. It shall be lawful for the Governor in Council, at any time hereafter, if he shall see fit, to declare by proclamation, to be published in the *Canada Gazette*, that any tract of land within the Dominion, of which the boundaries shall be particularly defined in the proclamation, is a penitentiary, and is to be so held within the meaning of this Act; and it shall be lawful for the Governor in Council to annul the same by any subsequent proclamation, published as aforesaid, declaring that the tract of land so established as a Penitentiary will

will cease to be so held and considered, from and after a certain day, to be named in said subsequent proclamation.

What shall be included as part of a Penitentiary.

13. Every Penitentiary now established, and every Penitentiary hereafter to be established by virtue of this Act, shall be held to include all carriages, waggons, sleighs or other vehicles for land carriage, and all boats, scows or other vessels for water carriage, being the property of such Penitentiary, or employed by hire or otherwise in its service, and likewise any wharf at or near the said Penitentiary, although not within the limits mentioned in the proclamation establishing the same, but used for the accommodation of such craft when so employed in or about any work or labour connected with such Penitentiary.

The like as to roads, &c.

14. Every street, highway or public thoroughfare of any kind, along or across which it may be necessary that convicts should pass in going to and returning from their work, shall, while so used, be considered as a portion of the tract of land forming the Penitentiary; and any escape, or attempt at escape, and any rescue, or aid in rescue, shall be held as if such escape or attempt at escape, and such rescue or aid in rescue had taken place, within the Prison walls or Penitentiary limits.

Directors may authorize the construction of tram roads.

15. It shall be lawful for the Directors to authorize the Warden of any Penitentiary, by an order passed at a full meeting, to construct rail or tram roads to communicate between any part of the Penitentiary and another, and to carry the same across, upon or along any public road or street intervening—in such manner, however, as to cause the least possible inconvenience to passengers or carriages using such road or street; But it shall not be lawful for the Warden of such Penitentiary to break ground upon any public road or street for the purpose of constructing such rail or tram roads, in virtue of such order by the Directors, until after the lapse of one month, after a copy of such order, certified by the said Warden, shall have been served upon the officer or person charged with the care or supervision of such public road, along with a plan showing the line which such rail or tram roads are to occupy.

Notice to municipality.

CONVEYANCE OF CONVICTS.

What shall be sufficient authority for conveying convicts.

16. The Sheriff or Deputy Sheriff of any County or District, or any Bailiff, Constable, or other officer, or other person, by his direction, or by the direction of a Court, may convey to the Penitentiary named in the sentence, any convict sentenced or liable to be imprisoned therein, and shall deliver

deliver him to the Warden thereof, without any further warrant than a copy of the sentence taken from the minutes of the Court before which the convict shall have been tried, and certified by a Judge or by the Clerk or acting Clerk of such Court.

When brought from any other penitentiary or gaol.

17. In all cases where a prisoner is ordered by competent authority to be conveyed to any Penitentiary from any other Penitentiary, or from a Reformatory Prison, or from a common gaol, there shall be delivered to the Warden of the Penitentiary receiving such prisoner, along with all other necessary documents, a certificate signed by the medical officer of the institution from which such prisoner has been taken, and countersigned by the Warden if he shall have been taken from a Penitentiary or a Reformatory Prison, or by the Sheriff or his Deputy if from a Common Gaol, declaring that such prisoner is free from any putrid, infectious or cutaneous disease, and that he is fit to be removed.

CONVICTS TO BE RECEIVED.

Duty of Warden.

18. The Warden shall receive into the Penitentiary every convict legally certified to him, as sentenced to imprisonment therein, and shall there detain him, together with those already lawfully confined therein, subject to all the rules, regulations, and discipline thereof, until the term for which he has been sentenced be completed, or until he shall be otherwise discharged in due course of law.

REMOVAL FROM AND TO A PENITENTIARY.

Governor may authorize removal from or to any penitentiary.

Proceedings in such case.

19. It shall be lawful for the Governor by warrant signed by the Secretary of State of Canada, or by such other officer as may be, from time to time, authorized by the Governor in Council, to direct the removal of any convict from any one Penitentiary to another; and the Warden of the Penitentiary, having the custody of any convict so ordered to be removed, shall, when required so to do, deliver up the said convict to the constable or other officer or person who shall produce the said warrant; together with a copy, attested by the said Warden, of the sentence and date of conviction of such convict as given to him on reception of said convict into his custody; and the constable or other officer or person shall give a receipt to the Warden for the convict, and shall thereupon, with all convenient despatch, convey and deliver up such convict with the said attested copy into the custody of the Warden of the Penitentiary mentioned in the warrant, who shall give a receipt in writing for every convict, so received into his custody, to such constable or other officer

Detention of convict.

officer or person as his discharge : and the convict shall be kept in custody in the Penitentiary to which he has been so removed, until his removal to another Penitentiary, or until the termination of his sentence, or until his pardon or release, or discharge by law.

Powers of sheriff or officer conveying convicts to a penitentiary.

20. The Sheriff or other officer or other person employed by competent authority, to convey any convict to any Penitentiary to which such convict is ordered to be taken, either by sentence of a Court or by order of the Secretary of State, or other officer, as in the next preceding section mentioned, may secure and convey him through any County or District, through which he may have to pass in any of the Provinces of Canada; and until the convict has been delivered to the Warden of such Penitentiary, he shall have, in all territorial divisions or parts of Canada through which it may be necessary to convey such convict, the same authority and power over and with regard to such convict, and to command the assistance of any person in preventing his escape, or in re-capturing him in case of an escape, as the Sheriff of the territorial division in which he was convicted, would himself have in conveying him from one part to another of that locality.

Power to convey a convict whose sentence has been commuted.

21. In any case, in which sentence of death has been passed upon any convict, by any Court in Canada, and the Governor, on behalf of Her Majesty, has been pleased to commute such sentence for imprisonment for life, or for any term of years, such commutation shall have the same effect as the judgment of a competent Court legally sentencing such convict to such imprisonment for life, or other term would have ; And the Sheriff, or other officer, or other person having such convict in custody, on receipt of a letter from the Secretary of State, or such other officer as aforesaid, notifying him of the fact of such commutation, and directing him to convey such convict to a Penitentiary therein named, shall forthwith convey such convict thereto, and shall have the same rights and powers in conveying such convict to said Penitentiary, as if the conveyance took place by virtue of the sentence of a competent Court.

Duty of Sheriff, &c.

What shall be sufficient authority to the warden in such case.

22. In order to commute any sentence of death as aforesaid for imprisonment for life, or for a term of years, it shall not be held to be necessary, nor to have been at any time necessary for the purpose of commuting such sentence, or of authorizing the conveyance of a prisoner to any Penitentiary, or for his reception and detention therein for the commuted period, that a copy of any pardon should be or should have been in the possession of the Warden of such Penitentiary ; a letter, signed by the Secretary of State, or such

such other officer as aforesaid, notifying the Warden of the fact of such commutation, and of the term of years for which the sentence has been commuted, or for life, shall be and shall have been sufficient authority for the Warden to receive such convict into the Penitentiary, and to deal with him as if he had been sentenced by a competent Court to confinement therein for the period in said letter mentioned.

Escape during conveyance to be felony.

23. Every prisoner who, being ordered to be detained in any Penitentiary, shall escape from the person or persons having the lawful custody of such prisoner, when being conveyed thereto, shall be guilty of felony, and being convicted thereof, shall have not less than two years added to the original term of his imprisonment; And any prisoner who at any time shall break prison or escape, or attempt to escape from the custody of any officer, guard, or other servant of the penitentiary while at work, or passing to or from work, either within or beyond the prison walls or Penitentiary limits, shall, on conviction thereof, be punished by an addition not exceeding three years to the term of his imprisonment, besides forfeiting the whole of the period of remission of sentence hereinafter mentioned, which he may have earned, and he may also be again confined in the penal prison or solitary cells, if any, attached to such Penitentiary, as in the prison rules may be prescribed.

Punishment of prisoners escaping or attempting to escape, while at work, &c.

Punishment for breaking prison or out of cell, &c.

24. Every prisoner in any Penitentiary who, at any time, shall attempt to break prison, or who shall forcibly break out of his cell, or make any breach therein with intent to escape therefrom, whether successful or not, shall, on conviction thereof, be punished by an addition, not exceeding one year, to the term of his imprisonment, besides forfeiting the whole of the period of remission of sentence earned by him, and being again confined as in the last clause mentioned.

For assaulting any officer.

25. If any convict, confined in any Penitentiary, shall assault any officer or servant employed therein, he shall be guilty of at least an aggravated assault, and shall also forfeit the whole of the period of remission of sentence which he may have previously earned, and shall be again confined, as in the twenty-third section.

Rescuing or attempting to rescue any prisoner.

26. Every person who shall rescue or attempt to rescue any prisoner, while being conveyed to any Penitentiary, or while being imprisoned therein, or while passing to or from work at or near any Penitentiary, and every person who, by supplying arms, tools or instruments of disguise or otherwise,

otherwise, shall in any manner aid any such prisoner in any escape or attempt at escape, shall be guilty of felony.

Keepers, &c., allowing prisoners to escape;

27. Every person having the custody of any such prisoner as aforesaid, or being employed by the person having such custody as a keeper, turnkey, guard or assistant, who shall carelessly allow any such convict to escape shall be guilty of a misdemeanor, and, on conviction, thereof, shall be liable to fine or imprisonment or to both, at the discretion of the Court; and every such person as aforesaid, who shall knowingly or willingly allow any such convict to escape shall be guilty of felony.

Or allowing money, spirits, letters, &c., to be brought into the penitentiary.

28. Every officer, guard or servant of any Penitentiary, or any other person who shall bring in or carry out, or endeavour to bring or carry out, or knowingly allow to be brought in or carried out to or from any convict, or carry to any convict while employed outside the prison walls, any money, clothing, provisions, tobacco, spirits, letters, papers or other articles whatsoever not allowed by the rules of the said prison, shall, if an officer or servant of the prison, be guilty of a misdemeanor, and may, if thought fit by the Warden or Deputy Warden, be apprehended and carried before a Justice of the Peace, who shall be empowered to hear and determine any such offence in a summary way, and every such officer, guard or servant or other person, upon conviction of such offence before a Justice of the Peace shall be liable to pay a penalty not exceeding one hundred dollars, or, in the discretion of the justice, to be imprisoned in the common gaol, there to be kept at hard labour for any term not exceeding three months.

Penalty, and how enforced.

TRANSFER OF JUVENILE OFFENDERS FROM AND TO REFORMATORY PRISONS.

May be removed from reformatory prison to penitentiary.

29. In any case where a juvenile offender has been ordered by competent authority to be imprisoned in any Reformatory Prison, and after his being imprisoned therein, has become incorrigible, it shall and may be lawful for the Lieutenant-Governor of the Province in which the Reformatory Prison is situated, by a warrant under his hand, addressed to the Warden of such Reformatory Prison, setting forth the sentence or order by which the juvenile offender was imprisoned therein, and the fact that he is incorrigible, to direct that such juvenile offender be removed to any Penitentiary named in said warrant; And the said Warden, or any other officer of the prison, or any other person authorized by him, shall have the same powers in conveying such

Powers of Warden in such case.

such juvenile offender to such Penitentiary as are hereinbefore given to a Sheriff or other person in like cases :

And dealt with as if sentenced to the penitentiary.

And it shall and may be lawful for the Warden of the Penitentiary therein named, to receive such juvenile offender and deal with him for the unexpired term of the sentence or order by which he was ordered to be imprisoned in such Reformatory Prison, as if he had been sentenced to such Penitentiary by a competent court: Provided that along with the said offender there be delivered to the Warden of the Penitentiary a copy of the said sentence or order, attested by the Warden of the Reformatory Prison, along with an order from the Lieutenant-Governor aforesaid, directing the Warden of such Penitentiary to receive such juvenile offender.

Juvenile convicts may be removed to reformatory prison.

30. The Governor may, at any time, in his discretion, by warrant under his hand, cause any convict in a Penitentiary, whose sentence is for not less than two years, and who may appear to the Directors to be under sixteen years of age, and susceptible of reformation, to be transferred to the Reformatory Prison, if any there be, of the Province where such convict was sentenced, for the remainder of his term of imprisonment.

TREATMENT OF CONVICTS.

Rules.

31. In the treatment of convicts in a Penitentiary, the following general rules shall be observed :—

Clothing.

1. Every convict shall, during the term of his confinement, be clothed at the expense of th Peniten tiary, in suitable prison garments ;

Food.

2. He shall be fed on a sufficient quantity of wholesome food ;

Bedding.

3. He shall be provided with a bed and pillow with sufficient covering, varied according to the season ;

Labour.

4. Except during sickness or other incapacity, he shall be kept constantly at hard labor, the kind of which shall be determined by the Warden, every day not exceeding ten hours, exclusive of hours for meals, except Sundays, Good Friday, and Christmas Day, and such other days as the Governor may set apart for days of fasting or thanksgiving, and such days as may be designated in the rules made by the Directors in that behalf ;

5.

Holidays for Roman Catholics.

5. No Roman Catholic convict shall be compelled to labor on any of the obligatory holidays of his Church; that is to say, Circumcision, Epiphany, Annunciation, Corpus Christi, Saint Peter and Saint Paul, All Saints, Conception and Ascension;

Over hours and payment therefor.

6. The Warden may, if he see fit, permit a convict of exemplary conduct to work over hours at such work as can be conveniently done in the Institution, and at such rates as shall be fixed by the Directors, the value of which overwork, at said rates, may be paid either to the convict's family during his imprisonment, should he so desire it, or be credited to him in the books of the institution, to be paid him on his discharge, subject, however, to any general rules which the Directors may make on the subject;

Solitary confinement when not employed.

7. Every convict shall be kept in a cell by himself at night, and during the day when not employed, except in case of sickness.

PRISON OFFENCES.

Prison rules.

No talking allowed.

32. The Directors shall draw up a list of prison offences by way of general warning to the convicts as to their conduct in the prison, among which it shall specially be declared that no convict shall be permitted to speak to another convict upon any pretence whatever, nor to any officer or guard, or other servant of the Institution, except with respect to the work at which he is employed, and then only in the fewest words and in a respectful manner.

PUNISHMENTS.

Directors to make rules for discipline and correction.

Proviso:—

Investigation in certain cases.

Proviso.

33. It shall be lawful for the Directors to make, and from time to time to alter rules for the discipline and correction of convicts confined in any Penitentiary as hereinbefore provided; but in case any convict shall be accused of having committed any offence which, if proved, would be followed by the infliction of corporal punishment or a remand to the penal prison, where such penal prison may be established, it shall be the duty of the Warden to make investigation upon oath into the facts of the case, before awarding such punishment, and to make a minute of the evidence taken by him, to be laid before the Directors at their next meeting: Provided, also that no more than sixty lashes shall be inflicted upon any prisoner for any such offence.

OFFICERS.

OFFICERS.

What officers the Governor may appoint for each penitentiary.

34. It shall be lawful for the Governor to appoint for any Penitentiary a Warden, a Deputy Warden, [who in the absence or incapacity of the Warden shall exercise all the functions of the Warden,] a Protestant Chaplain, an Assistant Protestant Chaplain when required, a Roman Catholic Chaplain, an Assistant Roman Catholic Chaplain when required, a Surgeon and Accountant, all of whom shall hold their offices during pleasure; and to employ an architect for the Penitentiary; but the Directors shall have power summarily to suspend any of the above named officers for misconduct, until the circumstances of the case (of which the Governor shall be at once notified) have been decided upon by the Governor; and the Directors may, until such decision shall have been intimated to their chairman, cause any officer so suspended to be removed beyond the precincts of the prison; and, generally, the Directors shall have power and it shall be their duty, to recommend the removal of any of the above named officers whom they may deem incapable, inefficient or negligent in the execution of his duty, or whose presence in the Penitentiary they consider detrimental to the interests thereof.

Power of directors to suspend any officer.

Directors to appoint certain officers.

35. It shall be lawful for the Directors to appoint for any Penitentiary, a Schoolmaster, a Schoolmistress, a Storekeeper, a Steward, and a Chief Keeper, (who, in the absence or incapacity of the Deputy Warden, shall exercise all the functions of such Deputy Warden), a Matron, a Deputy Matron, and such and so many Trade Instructors and Keepers as may from time to time be required—to hold their offices during pleasure; but the Warden shall have power summarily to suspend for misconduct any of the officers named in this section, until the next meeting of the Directors, when he shall submit to them a report of the circumstances of the case, to be dealt with as to them may seem meet.

Warden may suspend any of them.

Warden may appoint certain officers, guards, &c., and suspend or dismiss them.

36. It shall be lawful for the Warden to appoint for any Penitentiary, an Assistant Deputy Matron and a Clerk, and such and so many guards and other servants as by order of the Directors may be authorized, for the proper protection and care of the institution, and to suspend any of them for neglect of duty, for such time as he shall see fit, or dismiss them, without further charge than that of inefficiency in his opinion, but such suspension or dismissal shall be reported to the Directors at their next meeting.

As to pay in case of suspension.

37. The pay of every officer so suspended by the Directors, or by the Warden, shall cease during the period of his suspension

suspension, but the Directors shall nevertheless have power to direct payment of the same, if they see fit.

Fines for neglect of duty.

38. It shall be lawful for the Directors to impose a fine payable in money, upon any officer or servant appointed by them or by the Warden, for any act of negligence or carelessness by him committed, of such reasonable amount, not exceeding one month's pay, as the said Directors under the circumstances of the case may think fit.

Warden to be chief executive officer—his general powers and duties—must reside in the penitentiary.

39. The Warden of a Penitentiary shall be the chief executive officer of the same, and as such shall have the entire executive control and management of all its concerns, subject to the rules, regulations and written instructions from time to time duly made by the Directors, and in all cases not provided for and where neither the said Directors nor any one of them can readily be consulted, the Warden shall act in such manner as he shall deem most advantageous for the Penitentiary, and he shall be held responsible for the faithful and efficient administration of the affairs of every department of the institution; he shall reside in the Penitentiary, and shall receive such allowances of fuel and light as the Governor in Council may see fit to make.

DISCHARGE OF CONVICTS.

Convicts not to be discharged at certain times, except by their request.

40. No convict shall be discharged from a Penitentiary on the termination of his sentence, or otherwise, if laboring under any contagious or infectious disease; nor unless at his own request during the months of November, December, January, February or March, nor if laboring under any acute or dangerous disease; But he shall be permitted to remain in the Penitentiary until he recovers from such disease, or until the first day of April following the termination of his sentence: Provided always that a convict remaining from any cause in a Penitentiary after the termination of his sentence, shall be under the same discipline and control as if his sentence were still unexpired:

Proviso.

Order of discharge of convicts in April.

2. On the first day of April a list shall be made of all the prisoners whose sentences shall have expired during the five preceding months, and who may be still in prison, according to the dates when their sentences expired; and according to such order they shall be discharged, one convict on the said first day of April, and one on every day thereafter, until the whole shall have been discharged;

Sentence expiring on Sunday.

3. Whenever the term of any prisoner's sentence expires on a Sunday, he shall be discharged on the Saturday preceding, unless he desire to remain until the Monday following;

4.

Clothing and money to convict discharged.

4. Every convict under sentence for life or for not less than two years, upon his discharge, either by the expiration of sentence, or otherwise, shall be furnished at the expense of the Penitentiary with a suit of clothing other than prison clothing, and with such sum of money, as shall be sufficient to pay his travelling expenses to the place, at which he received his sentence, and such other sum in addition, not exceeding twenty dollars, as the Warden may deem proper: Should any sum remain at his credit for earnings for overwork, such sum shall be paid to him at such times, and in such amounts as the prison rules may direct.

Money due him.

PRISONERS' EFFECTS.

Articles found on convict on entry to be kept for him.

41. Every article found upon the person of a convict at the time of his reception into the Penitentiary, which may be considered worthy of preservation, shall be taken from him and a description thereof, entered in a book to be kept for that purpose, and if the convict shall not see fit otherwise to dispose of it at the time, it shall be carefully put away until the day of his discharge, when it shall be delivered up to him again in the state in which it may then be, but the Warden shall not be liable for any deterioration which may have taken place in such article in the interval. If at the time of his reception the convict desire to dispose of any such article and it shall be so disposed of, a memorandum of the fact shall be noted in the said book, and signed by the proper officer having charge of said book, and also by the convict, and the money received therefor shall be placed to his credit.

PRIVILEGED VISITORS.

Who shall have the right of visiting.

42. The following persons, other than the Directors, may visit any Penitentiary at pleasure, namely, the Governor General of Canada, the Lieutenant Governor of any of the Provinces composing the Dominion of Canada, any Member of the Privy Council of Canada, any Member of the Executive Council of any of the said Provinces, any Member of the Parliament of Canada or of any of the local Legislatures, any Judge of any Court of Record in Canada or in any of the said Provinces, and any Queen's Counsel; but no other person shall be permitted to enter within the walls where the prisoners are confined, except by the special permission of the Warden, and under such regulations as the Directors may prescribe.

Punishment of persons trespassing on

43. Any person who shall be found trespassing upon any grounds, buildings, yards, offices or other premises whatsoever

penitentiary grounds.

ever belonging or pertaining to any Penitentiary, or shall enter the same, not being an officer or servant of the said prison, or authorized by leave of the Warden, shall, upon conviction thereof before a Justice of the Peace for the City, County or District in which such Penitentiary may be situated, be adjudged to pay a fine not exceeding for the first offence ten dollars, to be recovered in the usual way; or in default of payment, then the offender may be sent to the common gaol, with or without hard labor, for any period not exceeding one month; and for a second or subsequent offence, the offender may be fined in any sum not exceeding fifty dollars, to be recovered in the same usual way, or in default, be liable to imprisonment, with or without hard labor, for a period not exceeding three calendar months.

CORONERS' INQUESTS.

Inquests on convicts dying in a penitentiary.

44. Whenever a convict dies in a Penitentiary, and the Directors or the Warden, or the Surgeon, or a Chaplain, have, or any of them has any reason to believe, that the death of such convict arose from any other than ordinary causes, it shall be their or his duty to call upon a coroner having jurisdiction, to hold an inquest upon the body of such deceased convict, and upon such requisition by one or more of the officers above named, the said Coroner shall hold such inquest, and, for that end, he and the jury and all other persons necessarily attending such inquest, shall have admittance to the prison for that purpose.

DECEASED CONVICTS.

How the body shall be disposed of.

45. The body of every convict who dies in a Penitentiary shall, if claimed by the relatives of the deceased, be given up to and shall be taken away by them, but, if not so claimed, the body may be delivered up to an Inspector of Anatomy, duly appointed under any Act authorizing such appointment, or to the Professor of Anatomy in any College wherein medical science is taught, or if not so delivered shall be decently interred at the expense of the Institution.

FEMALE PRISON AND PRISONERS.

Separate prison and female officers.

46. The female convicts shall be kept distinct and secluded from the male convicts, and shall be under the charge of a matron, with such and so many female officers as the directors may, from time to time, see fit to order to be employed, reference being had to the number of such convicts, and the kinds of work in which they may be engaged.

MISCELLANEOUS

MISCELLANEOUS PROVISIONS.

Exemption of officers, &c., from certain services.

47. The Warden and every officer and servant employed permanently in a Penitentiary shall, during his continuance in office, be exempt from serving as a Militiaman, except within the bounds of the Penitentiary.

Security to be given by officers, &c.

48. Every Warden, every Accountant, every Storekeeper and every Steward, shall severally execute bonds to Her Majesty, with sufficient sureties, that is to say, the Warden in the penal sum of eight thousand dollars, the Accountant in the penal sum of four thousand dollars, and the Storekeeper in the penal sum of two thousand dollars, and the Steward in the penal sum of one thousand dollars, conditioned for the faithful performance of the duties of their respective offices, according to law, which bonds shall be filed in the office of the Secretary of State of Canada.

Oath of allegiance to be taken by them.

49. Every Warden, and every other officer and servant employed permanently in a Penitentiary, shall severally take and subscribe in a book to be kept for that purpose by the Accountant in his office, the oath of allegiance to Her Majesty, and the following oath of office, viz.:

Form.

"I (A. B.,) do promise and swear that I will faithfully, diligently and justly serve and perform the office and duties of in the Penitentiary, to the best of my abilities; and that I will carefully observe and carry out all the regulations of the Prison. So help me God.

Before whom.

Which oaths any one of the Directors is hereby authorized to administer.

Directors, &c., not to be contractors.

50. No Director, Warden, or other officer or servant employed in a Penitentiary, shall either in his own name or in the name of, or in connection with any other person, provide, furnish or supply any materials, goods or provisions for the use of any Penitentiary, nor shall be concerned directly or indirectly in furnishing or supplying the same, or in any contract relating thereto, under pain of forfeiting the sum of five hundred dollars, with full costs of suit, to any person who shall sue for the same in any of Her Majesty's Courts in the Province in which such Penitentiary is situated.

Penalty.

Warden, &c., not to exercise any other calling.

51. No Warden, officer, or servant, excepting the Surgeon, shall be allowed to carry on any trade or calling of profit or emolument other than his office in the Penitentiary; nor shall any officer buy from or sell to or for any convict, any thing whatever; or take or receive for his or her own use, or for that of any other person, any fee or gratuity or emolument

ment from any convict or visitor or any other person; nor shall he employ any convict in working for him.

Governor to fix remuneration of Warden and other officers, not exceeding sums in the schedule

52. It shall be lawful for the Governor in Council, from time to time to fix the sum to be annually paid to the Warden and the other officers and servants of any Penitentiary established under the provisions of this Act,—regard being had to the number of convicts confined therein, and the consequent responsibility attaching to their offices respectively, and to the length of service and amount of labor devolved upon them; but such salaries shall not exceed the sums specified in the Schedule B, hereto annexed.

Warden to be a corporation sole, &c.

53. The Warden shall be a corporation sole known by the name of the "Warden of the Penitentiary," (designating the place as named in this Act, or named in any proclamation establishing a Penitentiary), and by that name he and his successors shall have perpetual succession, and may sue and be sued, may plead and be pleaded unto in any of Her Majesty's Courts.

Contracts, &c., to be in his name.

54. All dealings and transactions on account of any Penitentiary, and all contracts for goods, wares, or merchandise necessary for maintaining and carrying on the Institution, or for the sale of goods prepared or manufactured by the Institution, shall be entered into and carried out in the corporate name of the Warden, and all personal property belonging to the same shall be held in the corporate name of the Warden for behoof of Her Majesty.

Personalty to be held by him.

Real property how vested and managed.

55. The real property of every Penitentiary, as well as all the other property thereto belonging shall remain vested in Her Majesty, but the Warden and his successors in office shall have the custody and care thereof under the provisions of this Act, and all such property real and personal shall be exempt from all taxes.

ARBITRATORS.

Arbitration in case of difference between warden and contractors, &c.

56. Whenever any difference shall arise between the Warden, and any person having dealings with him on account of the Penitentiary, such difference may, by order of the Directors and the consent of the party in difference, be referred either to one Arbitrator, selected by the Warden and the party in difference, whose decision shall be final, or to three Arbitrators, one of whom shall be named by the Warden, and another by such other person, and a third by the two so named as aforesaid; and the award of any two of them shall be final,

57.

Warden to collect debts, &c.

57. The Warden of a Penitentiary shall exercise due diligence in enforcing the payment of debts due to the Penitentiary, and with as little expense as possible to the Institution, but he may, on the report of the Directors, sanctioned by the Governor in Council, accept of such security from any debtor on granting time, or such composition in full settlement, as may be thought conducive to the interests of the institution.

Books, accounts, &c., to be property of the institution.

58. All books of account and other books, bills, registers, returns, receipts, bills of parcels and vouchers, and all other papers and documents of every kind relating to the affairs of the Penitentiary, shall be considered the property of the institution and shall remain therein; and the Warden shall preserve therein at least one set of copies of all official reports made to the Parliament respecting the same, for which purpose and for the purpose of enabling him to distribute such official reports in exchange for like documents from other similar institutions abroad, he shall be furnished by the Clerk of the House of Commons with fifty copies of such reports as printed by order of the House, and so soon as they are printed.

Reports.

Penalty on vessels mooring, &c., on penitentiary wharves, &c.

59. No raft, boat, vessel or craft of any kind, shall moor or anchor within three hundred feet of the shore or wharf bounding the lands of any Penitentiary towards any lake, arm of the sea, bay or river, without the permission of the Warden thereof, being first had and obtained; and any person violating the provisions of this section shall, upon conviction thereof, before a Justice of the Peace, be subject to a penalty of twenty dollars, to be levied in the usual manner upon such raft, boat, vessel or craft in whomsoever the property thereof may be, as well as on the offender's own goods and chattels, and in default of payment of the same with the costs of suits, he shall be imprisoned at hard labor for a period not exceeding two months.

LIQUORS.

No spirits or tobacco allowed.

60. No spirituous or fermented liquors shall on any pretence whatever, be brought into the Penitentiary for the use of any officer or person in the institution, except the Warden or Deputy Warden if the latter shall be resident therein, or for the use of any convict confined therein, except under the rules of the institution; and any person giving any spirituous or fermented liquor, or tobacco, or snuff, or cigars to any convict, except under the rules of the institution, or conveying the same to any convict, shall forfeit and pay the sum of forty dollars to the Warden, to be by him recovered

Penalty.

for the use of the prison, in any court of competent jurisdiction.

PENAL CELLS.

Recital.

61. Whereas no system of discipline in a Penitentiary can be effectual for punishment, or for reformation of the criminal, unless it be combined with strict separate confinement during some period of the time for which the court has sentenced him to be imprisoned, and it is therefore expedient that provision should be made in all the Penitentiaries named in this Act, and in all others hereafter to be established by virtue of this Act, for the separate confinement of every convict for a certain period of the time mentioned in the sentence of the court by which he has been tried; therefore—

Penal cells may be constructed.

It shall be lawful for the Governor, whenever he shall deem it expedient, to order that such and so many penal cells shall be constructed from time to time at any Penitentiary as he may see fit.

SHORTENING OF SENTENCE.

Notes of behaviour of convicts to be kept, and for what purpose

62. In order to encourage convicts to good behaviour, diligence and industry, and to reward them for the same, it shall and may be lawful for the Directors of Penitentiaries to make rules and regulations, under which a correct record may be kept of the daily conduct of every convict in any Penitentiary, noting his industry, diligence and faithfulness in the performance of his work, and the strictness with which he observes the prison rules; with a view to permit such convict under the prison rules to earn a remission of a portion of the time for which he is sentenced to be confined, not exceeding five days for every month, during which he shall have been exemplary in industry, diligence and faithfulness in his work, and shall not have violated any of the prison rules.

Case of sickness provided for.

If any convict be prevented from labor by sickness or any other infirmity, not intentionally produced by himself, he shall be entitled, by good conduct, to two and a half days remission from his sentence every month.

ROCKWOOD LUNATIC ASYLUM.

C. 108 of C. S. C. repealed.

63. The Act passed by the late Province of Canada, in the twenty-second year of Her Majesty's reign, being chapter one hundred and eight of the Consolidated Statutes of the late Province of Canada, intituled: "*An Act respecting a Lunatic Asylum for Criminal Convicts*," is hereby repealed.

64.

Rockwood Asylum to be part of the Penitentiary.

64. It is hereby declared, that the lunatic asylum situated at Rockwood, near Kingston, in the County of Frontenac, in the Province of Ontario, together with all the tract and parcel of land belonging thereto, as now known to be measured and bounded, and all buildings on the said piece of land erected, or hereafter to be erected, shall be, and form part of the Kingston Penitentiary, and be called "Rockwood Asylum."

And any further ground acquired for it.

65. Every piece or parcel of land hereafter to be acquired by Her Majesty, for the uses and purposes of Rockwood Asylum, upon proclamation by the Governor, published in manner herein above set forth, defining the limits and boundaries thereof, shall also form part of the Kingston Penitentiary.

Duties and powers of directors as to asylum.

66. It shall be lawful for the Directors to have, use and exercise all the privileges and powers granted to them by this Act, and they shall perform all the duties made incumbent upon them hereby, with respect to the government, management and maintenance of Rockwood Asylum, and of the lunatics confined therein, as are conferred or rendered obligatory upon them with respect to Penitentiaries, subject to such instructions as shall be, from time to time, by them received from the Governor.

In case of difference of opinion of two Directors.

67. In case of a difference of opinion between two Directors at any meeting at the said asylum, at which no more than two are present, upon a special matter affecting the asylum only, the Medical Superintendent may be called upon at the joint request of such Directors to decide between them.

Removal of insane convicts to the asylum; how to be determined and effected.

68. Should it at any time appear to the Surgeon of the Kingston Penitentiary, that any convict confined therein is insane, and that it is desirable that such convict should be removed to Rockwood Asylum, he shall report the fact to the Warden of the Penitentiary, who upon receipt of such report, shall immediately desire the Medical Superintendent of Rockwood Asylum to meet the said Surgeon of the Penitentiary, at the said Penitentiary, at an early day by the Warden fixed for the purpose, and the Surgeon and the Medical Superintendent shall consult together, and determine as to the sanity or insanity of such convict, either at their first or at any subsequent consultation as they may see fit, and should they be jointly of opinion that such convict is of unsound mind and ought to be removed to Rockwood Asylum, they shall report the same in writing to the Warden of the Penitentiary, on which report the said Warden shall forthwith

forthwith remove such convict to Rockwood Asylum, and shall report the whole proceedings taken in the case to the Directors at their next meeting at the Penitentiary; and such convict shall be received into Rockwood Asylum, and be there safely kept, until he shall be remanded back to the Penitentiary, or until the expiration of his sentence, or until otherwise discharged, as hereinafter provided.

Case of recovery of convict before the expiration of his sentence.

69. If at any time before the termination of the sentence of such convict, it be certified to the said Warden by the Medical Superintendent of Rockwood Asylum, that such convict has recovered his reason and is in a fit state to be sent back to the Penitentiary, the said Warden shall desire the Surgeon of the Penitentiary to meet the said Medical Superintendent at Rockwood Asylum, and after examination of such convict by the said Surgeon and Medical Superintendent, if they shall jointly be of opinion that such convict has again become of sound mind, they shall make report of the same to the Warden, who thereupon shall convey such convict back to the Penitentiary, therein to be detained until the expiration of his sentence.

Expiration thereof while still in the asylum.

70. If the term of imprisonment of any convict shall expire while such convict is detained in Rockwood Asylum as insane, he may nevertheless continue to be detained therein, but the fact of and reason for his detention shall be notified in writing by the Medical Superintendent to the Secretary of State, and to the Warden.

Convict becoming sane after expiration of his sentence.

71. Should the said Convict at any time after the termination of his sentence become of sound mind, it shall be the duty of the Medical Superintendent, thereupon, to discharge him and to report the fact to the Secretary of State; or if at any time after the termination of his sentence and before his recovery, it shall seem fit to the Governor to order his being given up to any person or persons named in a warrant signed by the Secretary of State, the Medical Superintendent shall, upon receipt thereof, deliver the said convict to such person or persons, and the receipt of such person or persons for the body of such convict, shall be sufficient discharge to the said Medical Superintendent.

Governor in Council may order other lunatics to be received at Rockwood Asylum.

72. It shall be lawful for the Governor, by Order in Council, to direct that the Rockwood Asylum may be used as the Asylum or place for the safe keeping and treatment of any lunatic or class of lunatics (in addition to the insane convicts from the Kingston Penitentiary), to be named or specially designated in such Order in Council, and upon such terms and conditions as shall be therein set forth; and

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a certified copy of such Order in Council shall be communicated by the Secretary of State to the Medical Superintendent of the Asylum, and to the Chairman of the Directors.

Officers of Rockwood Asylum.

73. It shall be lawful for the Governor to appoint the following officers of Rockwood Asylum, to wit:—

The Medical Superintendent; the Assistant Medical Superintendent, (whenever there shall be a sufficient number of lunatic patients in the asylum as, in the opinion of the Governor, to render the services of such an officer required) and the Accountant; and it shall be lawful for the Directors to suspend from office any one of the officers named in this section for misconduct, incapacity or inefficiency, but they shall make immediate report of such suspension and the cause thereof to the Secretary of State, for the information of the Governor, and such officer shall be and remain so suspended until the pleasure of the Governor shall be made known to the Chairman of Directors.

Appointment of Steward.

74. It shall be lawful for the Directors to appoint a Steward for said asylum, who may for cause, be suspended from office by the Medical Superintendent, by whom reports of the facts of the case shall be made to the Directors at their next meeting for their consideration and decision.

Male and female officers.

75. It shall be lawful for the Medical Superintendent to appoint a Matron and such and so many other male and female officers, with the consent in writing of the Directors, as the Directors may consider necessary for the service of the institution, any of whom may be removed by the Medical Superintendent at pleasure, or by the Directors for cause.

Salary of Medical Superintendent.

76. The salary of the Medical Superintendent shall be as set forth in Schedule B., to this Act annexed, and he shall receive such allowance for fuel and light as to the Governor in Council may seem fit.

Salaries and allowances of him and others.

77. It shall be lawful for the Governor in Council, to fix such salaries and allowances to the officers of the Rockwood Asylum other than the Medical Superintendent, as the Governor may, from time to time, think reasonable, regard being had to the number of insane persons confined in the Asylum, and to the officer's length of service.

Short Title.

78. This Act may be cited as "The Penitentiary Act of 1868."

SCHEDULE

SCHEDULE A.

Two Senior Directors each	$2,000
One Junior Director, to act as Secretary	2,000

SCHEDULE B.

Warden, not exceeding	$2,600
and not less than	$1,000
Deputy Warden, not exceeding	$1,400
and not less than	600
Chief Keeper, not exceeding	800
and not less than	500
Chaplains, each, not exceeding	1,200
and not less than	400
Assistant Chaplains, not exceeding	500
and not less than	300
Surgeon, not exceeding	1,200
and not less than	400
Accountant, not exceeding	1,000
and not less than	500
Architect, for the Penitentiaries	1,200
Schoolmaster, not exceeding	600
and not less than	250
Storekeeper, not exceeding	700
and not less than	400
Steward, not exceeding	650
and not less than	400
(If the above two offices be combined, the salary may be that of the Storekeeper.)	
Trade Instructor, not exceeding	700
and not less than	500
Keeper, not exceeding	500
and not less than	400
Guard, not exceeding	450
and not less than	350
Other Male Servants, not exceeding per day	1
Matron, not exceeding	500
and not less than	250
Deputy Matron, not exceeding	300
and not less than	200
Assistant Deputy Matron, not exceeding	25
and not less than	175
School Mistress, not exceeding	250
and not less than	120
Officers of Rockwood Asylum.	
The Medical Superintendent, not exceeding	2,000
and not less than	1,600

CHAP.

CHAP. 94.

An Act respecting the Treaty between Her Majesty and the United States of America, for the apprehension and surrender of certain offenders.

[*Reserved for the signification of Her Majesty's pleasure thereon, 22nd May, 1868: Royal Assent given by Her Majesty in Council on the 19th June, 1868; Proclamation thereof made by His Excellency the Governor General on the 8th August, 1868.*]

Preamble.

Treaty with U. S. of 9th August, 1842, recited.

WHEREAS, by the tenth article of a Treaty between Her Majesty and the United States of America, signed at Washington on the ninth day of August, in the year one thousand eight hundred and forty-two, the ratifications whereof were exchanged at London, on the thirtieth day of October, in the same year, it was agreed that Her Majesty and the said United States should, upon mutual requisition by them or their Ministers, Officers or Authorities respectively made, deliver up to justice all persons who, being charged with the crime of murder, or assault with intent to commit Murder, or Piracy, or Arson, or Robbery, or Forgery, or the Utterance of Forged Paper, committed within the jurisdiction of either of the High Contracting parties, should seek an Asylum or should be found within the Territories of the other, provided that this should only be done upon such evidence of criminality as according to the laws of the place where the fugitive or person so charged should be found, would justify his apprehension and commitment for trial if the crime or offence had been there committed; and that the respective Judges and other Magistrates of the two Governments should have power, jurisdiction and authority, upon complaint made under oath, to issue a warrant for the apprehension of the fugitive or person so charged, so that he might be brought before such Judges or other Magistrates respectively, to the end that the evidence of criminality might be heard and considered, and that if on such hearing the evidence should be deemed sufficient to sustain the charge, it should be the duty of the examining Judge or Magistrate to certify the same to the proper Executive Authority, that a warrant might issue for the surrender of such fugitive; and that the expense of such apprehension and delivery should be borne and defrayed by the party making the requisition and receiving the fugitive; And whereas it is by the eleventh article of the said Treaty further agreed, that the tenth article hereinbefore recited should continue in force until one or other of the High Contracting Parties should signify its wish to terminate it, and no longer; And whereas certain provisions of the Act passed by the Parliament of the United Kingdom of Great Britain and Ireland, in the Session held in the sixth

sixth and seventh years of Her Majesty's reign, for giving effect to the Treaty aforesaid, and intituled: "*An Act for giving effect to a Treaty between Her Majesty and the United States of America, for the apprehension of certain Offenders,*" have been found inconvenient in practice in Canada, and more especially that provision which requires that before the arrest of any such offender a Warrant shall issue under the Hand and Seal of the person administering the Government, to signify that a requisition hath been made by the authority of the United States for the delivery of the offender as aforesaid, and to require all Justices of the Peace, and other Magistrates and Officers of Justice, within their several jurisdictions, to govern themselves accordingly, and to aid in apprehending the person so accused, and in committing such person to Gaol for the purpose of being delivered up to justice according to the provisions of the said Treaty, inasmuch as by the delay occasioned by compliance with the said provision, an offender may have time afforded him for eluding pursuit; And whereas by the fifth section of said Act it is enacted, that if by any Law or Ordinance to be thereafter made by local Legislature of any British Colony or Possession abroad, provision shall be made for carrying into complete effect within such Colony or Possession, the objects of the said Act, by the substitution of some other enactment in lieu thereof, then Her Majesty may, with the advice of Her Privy Council (if to Her Majesty in Council it seems meet), suspend, within any such Colony or Possession, the operation of the said Act of the Imperial Parliament, so long as such substituted enactment continues in force there, and no longer; And whereas it is expedient to make provision for carrying the objects of the said Act and Treaty into complete effect within the whole Dominion of Canada by the substitution of other enactments in lieu of those of the said Imperial Act: Therefore, Her Majesty, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows:—

Imp. Act 6, 7 V., c. 76 cited.

By whose order and on what evidence persons charged with certain crimes committed in the U. S. may be arrested and detained.

1. Upon complaint made under oath, or affirmation (in cases where affirmations can legally be taken instead of oaths), charging any person found within the limits of Canada with having committed, within the jurisdiction of the United States of America, any of the crimes enumerated or provided for by the said treaty, it shall be lawful for any Judge of any of Her Majesty's Superior Courts in Canada, or any Judge of a County Court in Canada, or any Recorder of a City in Canada, or any Police Magistrate, or Stipendiary Magistrate in Canada, or any Judge of the Sessions of the Peace in the Province of Quebec, or any Inspector and Superintendent of Police, empowered to act as a Justice of the Peace in the Province of Quebec, or any Commissioner appointed

pointed for the purpose by the Governor under the Great Seal, (which appointment the Governor is hereby authorized to make, and under which Commission such Commissioner shall, for the purposes of this Act, have all the powers of a Judge of one of Her Majesty's Superior Courts,) to issue his warrant for the apprehension of the person so charged, that he may be brought before such judge, commissioner or other officer; and upon the said person being brought before him under such warrant, it shall be lawful for such judge, commissioner or other officer, to examine upon oath any person or persons touching the truth of such charge, and upon such evidence as according to the laws of the Province in which he has been apprehended would justify the apprehension and committal for trial of the person so accused, if the crime of which he is so accused had been committed therein, it shall be lawful for such judge, commissioner or other officer to issue his warrant for the commitment of the person so charged, to the proper gaol, there to remain until surrendered according to the stipulation of the said treaty, or until discharged according to law; and the judge, commissioner or other officer shall thereupon forthwith transmit or deliver to the Governor, a copy of all the testimony taken before him, that a warrant may issue, upon the requisition of the United States, for the surrender of such person, pursuant to the said treaty.

Copy of evidence to be transmitted to the Governor.

2. In every case of complaint, as aforesaid, and of a hearing upon the return of the warrant of arrest, copies of the depositions upon which the original warrant was granted in the United States, certified under the hand of the person or persons issuing such warrant, and attested upon the oath of the party producing them, to be true copies of the original depositions, may be received in evidence of the criminality of the person so apprehended.

Certain copies of depositions may be received in evidence.

3. It shall be lawful for the Governor, at any time not less than seven days after the commitment of an accused person, according to the provisions of the first section, upon a requisition made as aforesaid, by the United States, by warrant under his hand and seal, to order the person so committed, to be delivered to the person or persons authorized to receive such person in the name and on behalf of the said United States, to be tried for the crime of which such person stands accused; and such person shall be delivered up accordingly: and the person or persons, authorized as aforesaid, may hold such person in custody, and take him to the territories of the said United States, pursuant to the said treaty; and if the person so accused, escapes out of any custody to which he stands committed, or to which he has been delivered as aforesaid, such person may be

The Governor may after a period of seven days from commitment order the delivery of the offender on the requisition of the U. S.

Provisions in case of escape.

be retaken in the same manner as any person accused of any crime against the laws of the Province in which the escape occurs, may be retaken upon an escape.

Governor may in his discretion, order the discharge of the person so committed.

4. In case at any time after such commitment as aforesaid, the Governor determines that the person so committed ought not to be so delivered as aforesaid, it shall be lawful for the Governor, by a warrant under his hand and seal, to order such person to be discharged out of custody upon such commitment.

Prisoner detained more than two months after commitment, &c., may be discharged by order of a Judge.

5. In case any person committed under this Act and the treaty aforesaid, to remain until delivered up in pursuance of a requisition as aforesaid, be not delivered up pursuant thereto and conveyed out of Canada within two months after such commitment, over and above the time actually required to convey the prisoner from the gaol to which he has been committed by the readiest way out of Canada, any one or more of the Judges of any of Her Majesty's Superior Courts in Canada, having power to grant a writ of *Habeas Corpus*, may, upon application made to him or them by or on behalf of the person so committed, and upon proof made to him or them that reasonable notice of the intention to make such application has been given to the Secretary of State of Canada, order the person so committed to be discharged out of custody, unless sufficient cause be shewn to such judge or judges why such discharge should not be ordered.

Duration of this Act.

6. This Act shall continue in force during the continuance of the tenth article of the said treaty and no longer.

Inconsistent enactments superseded and repealed.

Except as to proceedings commenced.

7. The eighty-ninth chapter of the Consolidated Statutes of the late Province of Canada, and the Act of the legislature of that Province passed in the twenty-fourth year of Her Majesty's reign, chapter six, are superseded by this Act and repealed, except as respects any proceedings commenced under them or either of them before the passing of this Act, which shall be continued and completed under them as if this Act had not been passed.



32 & 33 VICTORIA.

CHAP. 17.

An Act to remove doubts as to Legislation in Canada regarding offences not wholly committed within its limits.

[*Assented to 22nd June*, 1869.]

Preamble. HER Majesty, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows:—

Certain words in ss. 2 and 5 of c. 69, 31 V. repealed. 1. The words "or without" in the first line of the second section of the sixty-ninth chapter of the Statutes of Canada passed in the thirty-first year of Her Majesty's reign, and the same words in the second line of the fifth section of the same Act, and any other words in the said chapter assuming a jurisdiction over offences not wholly committed in Canada, are repealed.

Also part of s. 8 of c. 72, 31 V. 2. So much of the eighth section of the seventy-second chapter of the Statutes of the same year, as relates to felonies which shall not have been wholly committed within Canada, and to persons who shall be accessories to such felonies, is hereby repealed.

CHAP. 18.

An Act respecting Offences relating to the Coin.

[*Assented to 22nd June*, 1869.]

Preamble. WHEREAS it is expedient to assimilate, amend and consolidate the Statute Law of the several Provinces of Quebec, Ontario, Nova Scotia and New Brunswick, respecting

specting offences relating to the Coin, and to extend the same as so consolidated, to all Canada: Therefore, Her Majesty, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows:—

Interpretation of terms. Current gold and silver coin.

1. In the interpretation of and for the purposes of this Act, the expression "current gold or silver coin" shall include any gold or silver coined in any of Her Majesty's mints, or gold or silver coin of any foreign prince, or state or country or other coin lawfully current, by virtue of any proclamation or otherwise, in Canada or in any other part of Her Majesty's Dominions; and the expression "current

Copper coin.

copper coin" shall include any copper coin and any coin of bronze or mixed metal coined in any of Her Majesty's mints, or lawfully current, by virtue of any proclamation or otherwise, in Canada, or any other part of Her Majesty's

False or counterfeit coin.

Dominions; and the expression "false or counterfeit coin resembling or apparently intended to resemble or pass for current gold or silver coin" or other similar expression, shall include any of the current coin which has been gilt, silvered, washed, coloured or cased over, or in any manner altered, so as to resemble or be apparently intended to resemble or pass for any of the current coin of a higher

Current coin.

denomination; and the expression "current coin," shall include any coin coined in any of Her Majesty's mints, or lawfully current, by virtue of any proclamation or otherwise, in Canada, or any other part of Her Majesty's Dominions, and whether made of gold, silver, copper, bronze,

What shall be having in possession.

or mixed metal;—and where the having any matter in the custody or possession of any person is mentioned in this Act, it shall include, not only the having of it by himself in his personal custody or possession, but also the knowingly and wilfully having it in the actual custody or possession of any other person, and also the knowingly and wilfully having it in any dwelling-house or other building, lodging, apartment, field, or other place, open or inclosed, whether belonging to or occupied by himself or not, and whether such matter is so had for his own use or benefit, or for that of any other person.

Counterfeiting current gold or silver coin.

2. Whosoever falsely makes or counterfeits any coin resembling or apparently intended to resemble or pass for any current gold or silver coin, is guilty of felony, and shall be liable to be imprisoned in the penitentiary for life, or for any term not less than two years, or to be imprisoned in any other gaol or place of confinement for any term less than two years, with or without hard labour, and with or without solitary confinement.

3.

Colouring any coin or any pieces of metal with intent to make them pass for gold or silver coin

3. Whosoever gilds or silvers, or with any wash or materials capable of producing the colour or appearance of gold or of silver, or by any means whatsoever, washes, cases over, or colours any coin whatsoever resembling or apparently intended to resemble or pass for any current gold or silver coin, or gilds or silvers or with any wash or materials capable of producing the colour or appearance of gold or silver, or by any means whatsoever, washes, cases over or colours any piece of silver or copper, or of coarse gold or coarse silver, or of any metal or mixture of metals respectively, being of a fit size and figure to be coined, and with intent that the same shall be coined, into false and counterfeit coin resembling or apparently intended to resemble or pass for any current gold or silver coin, or gilds or with any wash or materials capable of producing the colour and appearance of gold, or by any means whatsoever, washes, cases over or colours any current silver coin, or files or in any manner alters such coin, with intent to make the same resemble or pass for any current gold coin, or gilds or silvers or with any wash or materials capable of producing the colour or appearance of gold or silver, or by any means whatsoever, washes, cases over or colours any current copper coin, or files or in any manner alters such coin with intent to make the same resemble or pass for any current gold or silver coin, is guilty of felony, and shall be liable to be imprisoned in the penitentiary for life or for any term not less than two years, or to be imprisoned in any other gaol or place of confinement for any term less than two years, with or without hard labour and with or without solitary confinement.

Colouring or altering genuine coin, with intent to make it pass for coin of a higher value.

Impairing the gold or silver coin with intent, &c.

4. Whosoever impairs, diminishes, or lightens any current gold or silver coin, with intent that the coin so impaired, diminished, or lightened, may pass for current gold or silver coin, is guilty of felony, and shall be liable to be imprisoned in the penitentiary for any term not exceeding fourteen years, and not less than two years, or to be imprisoned in any other gaol or place of confinement for any term less than two years, with or without hard labour and with or without solitary confinement.

Unlawful possession of filings or clippings of gold or silver coin.

5. Whosoever unlawfully has in his custody or possession any filings or clippings, or any gold or silver bullion, or any gold or silver in dust, solution, or otherwise, which have been produced or obtained by impairing, diminishing, or lightening, any current gold or silver coin, knowing the same to have been so produced or obtained, is guilty of felony, and shall be liable to be imprisoned in the Penitentiary for any term not exceeding seven years, and not less than

than two years, or to be imprisoned in any other gaol or place of confinement for any term less than two years, with or without hard labour and with or without solitary confinement.

Buying or selling, &c., counterfeit gold or silver coin for lower value than its denomination imports.

6. Whosoever, without lawful authority or excuse (the proof whereof shall lie on the party accused), buys, sells, receives, pays or puts off, or offers to buy, sell, receive, pay, or put off, any false or counterfeit coin, resembling or apparently intended to resemble or pass for any current gold or silver coin, at or for a lower rate or value than the same imports, or was apparently intended to import, is guilty of felony, and shall be liable to be imprisoned in the penitentiary for life or for any term not less than two years, or to be imprisoned in any other gaol or place of confinement for any term less than two years, with or without hard labour and with or without solitary confinement; and in any indictment for any such offence as in this section aforesaid, it shall be sufficient to allege that the party accused did buy, sell, receive, pay or put off, or did offer to buy, sell, receive, pay or put off, the false or counterfeit coin, at or for a lower rate of value than the same imports, or was apparently intended to import, without alleging at or for what rate, price or value, the same was bought, sold, received, paid or put off, or offered to be bought, sold, received, paid or put off.

What shall be sufficient in an indictment.

Importing counterfeit coin.

7. Whosoever, without lawful authority or excuse (the proof whereof shall lie on the party accused), imports or receives into Canada any false or counterfeit coin, resembling or apparently intended to resemble or pass for any current gold or silver coin, knowing the same to be false or counterfeit, is guilty of felony, and shall be liable to be imprisoned in the penitentiary for life or for any term not less than two years, or to be imprisoned in any other gaol or place of confinement for any term less than two years, with or without hard labour, and with or without solitary confinement.

Exporting counterfeit coin.

8. Whosoever, without lawful authority or excuse (the proof whereof shall lie on the party accused), exports or puts on board any ship, vessel or boat, or on any railway, or carriage, or vehicle of any description whatsoever, for the purpose of being exported from Canada, any false or counterfeit coin, resembling or apparently intended to resemble or pass for any current coin, or for any foreign coin of any prince, country, or state, knowing the same to be false or counterfeit, is guilty of a misdemeanor, and shall be liable to be imprisoned in any gaol or place of confinement, other than a penitentiary, for any term less than two years,

years, with or without hard labour, and with or without solitary confinement.

Uttering counterfeit gold or silver coin.

9. Whosoever tenders, utters or puts off any false or counterfeit coin, resembling or apparently intended to resemble or pass for any current gold or silver coin, knowing the same to be false or counterfeit, is guilty of a misdemeanor, and shall be liable to be imprisoned in the penitentiary for any term not exceeding fourteen years, and not less than two years, or to be imprisoned in any other gaol or place of confinement, for any term less than two years, with or without hard labour, and with or without solitary confinement.

Passing light gold or silver coin.

10. Whosoever tenders, utters or puts off as being current, any gold or silver coin of less than its lawful weight, knowing such coin to have been impaired, diminished or lightened, otherwise than by lawful wear, is guilty of a misdemeanor, and shall be liable to be imprisoned in any gaol or place of confinement, other than a penitentiary, for a period not exceeding one year, with or without hard labour, and with or without solitary confinement.

Having counterfeit gold or silver coin in possession, &c., with intent, &c.

11. Whosoever has in his custody or possession any false or counterfeit coin, resembling or apparently intended to resemble or pass for any current gold or silver coin, knowing the same to be false or counterfeit coin, and with intent to utter or put off any such false or counterfeit coin, is guilty of a misdemeanor, and shall be liable to be imprisoned in the penitentiary for any term not exceeding three years, nor less than two years, or to be imprisoned in any gaol or place of confinement for any term less than two years, with or without hard labour, and with or without solitary confinement

Every subsequent offence of uttering, &c., after a previous conviction shall be felony.

12. Whosoever, having been convicted, either before or after the passing of this Act, of any such misdemeanor as in any of the last three preceding sections mentioned, or of any misdemeanor or felony against this or any former Act heretofore in force in Canada, or in any of the Provinces thereof, relating to the coin, afterwards commits any of the misdemeanors in any of the said sections mentioned, is guilty of felony, and shall be liable to be imprisoned in the penitentiary for life or for any term not less than two years, or to be imprisoned in any other gaol or place of confinement for any term less than two years, with or without hard labour, and with or without solitary confinement.

Uttering foreign coin, medals, &c., not

13. Whosoever, with intent to defraud, tenders, utters, or puts off, as or for any current gold or silver coin, any coin

as current coin, with intent to defraud.

not being such current gold or silver coin, or any medal, or piece of metal or mixed metals, resembling in size, figure and colour, the current coin as or for which the same is so tendered, uttered or put off, such coin, medal, or piece of metal or mixed metals so tendered, uttered or put off, being of less value than the current coin as or for which the same is so tendered, uttered or put off, is guilty of a misdemeanor, and shall be liable to be imprisoned in any gaol or place of confinement, other than a penitentiary, for any term not exceeding one year, with or without hard labour, and with or without solitary confinement.

Counterfeiting, &c., copper coin; or buying or selling it for less than its denomination imports, &c.

14 Whosoever falsely makes or counterfeits any coin resembling or apparently intended to resemble or pass for any current copper coin; and whosoever without lawful authority or excuse (the proof of which shall lie on the party accused), knowingly makes or mends, or begins, or proceeds to make or mend, or buy or sell, or have in his custody or possession any instrument, tool or engine adapted and intended for the counterfeiting any current copper coin, or buys, sells, receives, pays, or puts off, or offers to buy, sell, receive, pay, or put off, any false or counterfeit coin, resembling or apparently intended to resemble or pass for any current copper coin, at or for a lower rate of value than the same imports, or was apparently intended to import, is guilty of felony, and shall be liable to be imprisoned in the penitentiary for any term not exceeding seven years and not less than two years, or to be imprisoned in any other gaol or place of confinement for any term less than two years, with or without hard labour, and with or without solitary confinement.

Uttering base copper coin.

15. Whosoever tenders, utters, or puts off any false or counterfeit coin, resembling or apparently intended to resemble or pass for any current copper coin, knowing the same to be false or counterfeit, or has in his custody or possession three or more pieces of false or counterfeit coin, resembling or apparently intended to resemble or pass for any current copper coin, knowing the same to be false or counterfeit, with an intent to utter or put off the same or any of them, is guilty of a misdemeanor, and shall be liable to be imprisoned in any gaol or place of confinement, other than a penitentiary, for any term not exceeding one year, with or without hard labour, or with or without solitary confinement.

Defacing the coin by stamping words thereon.

16. Whosoever defaces any current gold, silver or copper coin by stamping thereon any names or words, whether such coin is or is not thereby diminished or lightened, and afterwards

afterwards tenders the same, is guilty of a misdemeanor, and shall be liable to be imprisoned in any gaol or place of confinement, other than the penitentiary, for any term not exceeding one year, with or without hard labour.

Tender of coin so defaced not to be a legal tender, and penalty for uttering the same.

17. No tender of payment in money made in any gold, silver or copper coin so defaced by stamping, as in the last preceding section mentioned, shall be allowed to be a legal tender; and whosoever tenders, utters, or puts off any coin so defaced, shall, on conviction before two Justices of the Peace, be liable to forfeit and pay any sum not exceeding ten dollars: Provided that it shall not be lawful for any person to proceed for any such last mentioned penalty without the consent of the Attorney General for the Province in which such offence is alleged to have been committed.

Proviso.

Counterfeiting foreign gold and silver coin, not current in Canada.

18. Whosoever makes or counterfeits any kind of coin not being current gold or silver coin, but resembling or apparently intended to resemble or pass for any gold or silver coin of any foreign prince, state or country, is guilty of felony, and shall be liable to be imprisoned in the penitentiary for any term not exceeding seven years and not less than two years, or to be imprisoned in any other gaol or place of confinement for any term less than two years, with or without hard labour, and with or without solitary confinement.

Bringing such counterfeit coin into Canada.

19. Whosoever, without lawful authority or excuse (the proof whereof shall lie on the party accused), brings or receives into Canada, any such false or counterfeit coin, resembling or apparently intended to resemble or pass for any gold or silver coin of any foreign prince, state or country, not being current coin, knowing the same to be false or counterfeit, is guilty of felony, and shall be liable to be imprisoned in the penitentiary for any term not exceeding seven years and not less than two years, or to be imprisoned in any other gaol or place of confinement for any term less than two years, with or without hard labour, and with or without solitary confinement.

Penalty for uttering such counterfeit foreign coin.

20. Whosoever tenders, utters, or puts off any such false or counterfeit coin, resembling or apparently intended to resemble or pass for any gold or silver coin of any foreign prince, state or country, not being current coin, knowing the same to be false or counterfeit, is guilty of a misdemeanor, and shall be liable to be imprisoned in any gaol or place of confinement other than a penitentiary for any term not exceeding six months, with or without hard labour.

Second offence of uttering such counterfeit foreign coin.

Subsequent offence.

21. Whosoever, having been so convicted as in the last preceding section mentioned, afterwards commits the like offence of tendering, uttering or putting off any such false or counterfeit coin, as aforesaid, knowing the same to be false or counterfeit, is guilty of a misdemeanor, and shall be liable to be imprisoned in any gaol or place of confinement other than a penitentiary for any term less than two years; and whosoever, having been so convicted of a second offence, afterwards commits the like offence of tendering, uttering, or putting off any such false or counterfeit coin, as aforesaid, knowing the same to be false or counterfeit is guilty of felony, and shall be liable to be imprisoned in the penitentiary for any term not exceeding seven years and not less than two years, or to be imprisoned in any other gaol or place of confinement for any term less than two years, with or without hard labour and with or without solitary confinement.

Having such coin in possession.

22. Whosoever, without lawful authority or excuse, (the proof whereof shall lie on the party accused), has in his possession or custody any forged, false or counterfeited piece or coin, counterfeited to resemble any foreign gold or silver coin described in the four next preceding sections of this Act mentioned, knowing the same to be false or counterfeit, with intent to put off any such false or counterfeit coin, is guilty of misdemeanor, and shall be liable to be imprisoned in the penitentiary for any term not exceeding three years nor less than two years, or to be imprisoned in any other gaol or place of confinement for any term less than two years, with or without hard labour and with or without solitary confinement.

Counterfeiting foreign coin, other than gold and silver coin.

23. Whosoever falsely makes or counterfeits any kind of coin, not being current coin, but resembling or apparently intended to resemble or pass for any copper coin, or any other coin made of any metal or mixed metals, of less value than the silver coin, of any foreign prince, state or country, is guilty of a misdemeanor, and shall be liable, for the first offence, to be imprisoned in any gaol or place of confinement, other than the penitentiary, for any term not exceeding one year; and for the second offence, to be imprisoned in the penitentiary for any term not exceeding seven years and not less than two years, or to be imprisoned in any other gaol or place of confinement for any term less than two years, with or without hard labour, and with or without solitary confinement.

Making, mending, or having unlawfully possession of any

24. Whosoever, without lawful authority or excuse (the proof whereof shall lie on the party accused), knowingly makes or mends or begins or proceeds to make or mend, or buy

buy or sell, or have in his custody or possession any puncheon, counter puncheon, matrix, stamp, die, pattern, or mould in or upon which there shall be made or impressed, or which will make or impress, or which shall be adapted and intended to make or impress the figure, stamp, or apparent resemblance of both or either of the sides of any current gold or silver coin, or of any coin of any foreign prince, state or country, or any part or parts of both or either of such sides;—or makes or mends, or begins or proceeds to make or mend, or buys or sells or has in custody or possession any edger, edging or other tool, collar, instrument, or engine adapted and intended for the marking of coin round the edges with letters, grainings, or other marks or figures, apparently resembling those on the edges of any such coin as in this section aforesaid, knowing the same to be so adapted and intended as aforesaid,—or makes or mends, or begins or proceeds to make or mend, or buys or sells, or has in his custody or possession, any press for coinage, or any cutting engine for cutting by force of a screw or of any other contrivance, round blanks out of gold, silver, or other metal or mixture of metals, or any other machine, knowing such press to be a press for coinage, or knowing such engine or machine to have been used or to be intended to be used for or in order to the false making or counterfeiting of any such coin as in this section aforesaid, is guilty of felony, and shall be liable to be imprisoned in the penitentiary for life or for any term not less than two years, or to be imprisoned in any other gaol or place of confinement for any term less than two years, with or without hard labour and with or without solitary confinement. coining tools, felony.

25. Whosoever, without lawful authority or excuse (the proof whereof shall lie on the party accused), knowingly conveys out of any of Her Majesty's mints into Canada, any puncheon, counter puncheon, matrix, stamp, die, pattern, mould, edger, edging, or other tool, collar, instrument, press or engine, used or employed in or about the coining of coin, or any useful part of any of the several matters aforesaid, or any coin, bullion, metal or mixture of metals, is guilty of felony and shall be liable to be imprisoned in the Penitentiary for life or for any term not less than two years, or to be imprisoned in any other gaol or place of confinement for any term less than two years, with or without hard labour and with or without solitary confinement. Conveying tools or moneys, or metal out of the mint without authority, felony.

26. Where any coin is tendered as current gold or silver coin to any person who suspects the same to be diminished otherwise than by reasonable wearing, or to be counterfeit, it shall be lawful for such person to cut, break, bend or deface such coin, and if any coin so cut, broken, bent or defaced, Coin suspected to be diminished or counterfeit may be cut by any person to whom it is tendered.

faced, appears to be diminished otherwise than by reasonable wearing, or to be counterfeit, the person tendering the same shall bear the loss thereof; but if the same is of due weight, and appears to be lawful coin, the person cutting, breaking, bending or defacing the same, shall be bound to receive the same at the rate it was coined for: and if any dispute arises whether the coin so cut, broken, bent or defaced, is diminished in manner aforesaid, or counterfeit, it shall be heard and finally determined in a summary manner by any Justice of the Peace, who is hereby empowered to examine, upon oath, as well the parties as any other person, in order to the decision of such dispute, and if he entertains any doubt in that behalf, he may summon three persons, the decision of a majority of whom shall be final; and the Receivers of every branch of Her Majesty's revenue in Canada, are hereby required to cut, break, or deface, or cause to be cut, broken or defaced, every piece of counterfeit or unlawfully diminished gold or silver coin which shall be tendered to them in payment of any part of Her Majesty's revenue in Canada.

Who shall bear the oss.

Revenue officers to destroy such coin.

Provision for the discovery and seizure of counterfeit coin and coining tools, for securing them as evidence and for ultimately disposing of them.

27. If any person finds or discovers in any place whatever or in the custody or possession of any person having the same without lawful authority or excuse, any false or counterfeit coin resembling or apparently intended to resemble or pass for any current gold, silver or copper coin, or any coin of any foreign prince, state or country, or any instrument, tool or engine whatsoever, adapted and intended for the counterfeiting of any such coin, or any filings or clippings, or any gold or silver bullion, or any gold or silver, in dust, solution or otherwise, which has been produced or obtained by diminishing or lightening any current gold or silver coin, the person so finding or discovering may, and he is hereby required to seize the same and to carry the same forthwith before some Justice of the Peace; and in case it is proved, on the oath of a credible witness, before any Justice of the Peace, that there is reasonable cause to suspect that any person has been concerned in counterfeiting current gold, silver or copper coin, or any such foreign or other coin as is in this Act before mentioned, or has in his custody or possession any such false or counterfeit coin, or any instrument, tool or engine whatsoever, adapted and intended for the making or counterfeiting of any such coin, or any other machine used or intended to be used for making or counterfeiting any such coin, or any such filings, clippings or bullion, or any such gold or silver, in dust, solution or otherwise, as aforesaid, any Justice of the Peace may, by warrant under his hand, cause any place whatsoever belonging to or in the occupation or under the control of such suspected person to be searched, either in the day or in the night, and if any

any such false or counterfeit coin, or any such instrument, tool or engine, or any such machine, or any such filings, clippings, or bullion, or any such gold or silver in dust, solution or otherwise, as aforesaid, is found in any place so searched, to cause the same to be seized and carried forthwith before some Justice of the Peace; and whensoever any such false or counterfeit coin, or any such instrument, tool or engine, or any such machine, or any such filings, clippings or bullion, or any such gold or silver, in dust, solution or otherwise, as aforesaid, is in any case whatsoever seized and carried before a Justice of the Peace, he shall, if necessary, cause the same to be secured, for the purpose of being produced in evidence against any person who may be prosecuted for an offence against this Act, and all such false and counterfeit coin, and all instruments, tools and engines, adapted and intended for the making or counterfeiting of coin, and all such machines, and all such filings, clippings and bullion, and all such gold and silver, in dust, solution or otherwise, as aforesaid, after they have been produced in evidence, or when they have been seized and are not required to be produced in evidence, shall forthwith by the order of the court, be defaced or otherwise disposed of as the court may direct.

Counterfeit coin produced in Court, how disposed of.

28. If any false or counterfeit coin be produced in any court of law, the court shall order the same to be cut in pieces in open court, or in the presence of a Justice of the Peace, and then delivered to or for the lawful owner thereof, if such owner claims the same.

Venue, and place of trial in cases of prosecution under this Act.

29. Where any person tenders, utters, or puts off any false or counterfeit coin in any one Province of Canada, or in any one district, county or jurisdiction therein, and also tenders, utters, or puts off any other false or counterfeit coin, in any other Province, district, county or jurisdiction, either on the day of such first mentioned tendering, uttering or putting off, or within the space of ten days next ensuing, or where two or more persons, acting in concert in different Provinces, or in different districts, counties or jurisdictions therein, commit any offence against this Act, every such offender may be dealt with, indicted, tried and punished, and the offence laid and charged to have been committed, in any one of the said Provinces, or districts, counties or jurisdictions, in the same manner in all respects, as if the offence had been actually and wholly committed within one Province, district, county or jurisdiction.

What shall be sufficient proof of coin being counterfeit.

30. Where, upon the trial of any person charged with any offence against this Act, it becomes necessary to prove that any coin produced in evidence against such person is false or counterfeit, it shall not be necessary to prove the same

same to be false and counterfeit by the evidence of any moneyer or other officer of Her Majesty's Mint, or other person employed in producing the lawful coin in Her Majesty's dominions or elsewhere, whether the coin counterfeited be current coin, or the coin of any foreign prince, state or country, not current in Canada, but it shall be sufficient to prove the same to be false or counterfeit by the evidence of any other credible witness.

Differences in date &c., of true and false coin not ground for acquittal.

31. Upon the trial of any person accused of any offence alleged to have been committed against the form of any Statute of Canada or of any of the Provinces, passed or to be passed respecting the currency or coin, or against the provisions of this Act, no difference in the date or year, or in any legend, marked upon the lawful coin described in the indictment, and the date or year or legend marked upon the false coin counterfeited to resemble or pass for such lawful coin, or upon any die, plate, press, tool or instrument used, constructed, devised, adapted or designed, for the purpose of counterfeiting or imitating any such lawful coin, shall be considered a just or lawful cause or reason for acquitting any such person of such offence; and it shall, in any case, be sufficient to prove such general resemblance to the lawful coin as will shew an intention that the counterfeit should pass for it.

When the counterfeiting coin shall be complete.

32. Every offence of falsely making or counterfeiting any coin, or of buying, selling, receiving, paying, tendering, uttering or putting off, or of offering to buy, sell, receive, pay, utter, or put off, any false or counterfeit coin, against the provisions of this Act, shall be deemed to be complete, although the coin so made or counterfeited, or bought, sold, received, paid, tendered, uttered or put off, or offered to be bought, sold, received, paid, tendered, uttered or put off, was not in a fit state to be uttered, or the counterfeiting thereof was not finished or perfected.

Any person may apprehend offenders against this Act.

33. It shall be lawful for any person whatsoever to apprehend any person who is found committing any indictable offence against this Act, and to convey or deliver him to some peace officer, constable, or officer of police, in order to his being conveyed, as soon as reasonably may be, before a Justice of the Peace or some other proper officer, to be dealt with according to law.

Fine and sureties for keeping the peace; in what cases.

34. Whenever any person is convicted of any indictable misdemeanor punishable under this Act, the court may, if it thinks fit, in addition to or in lieu of any of the punishments by this Act authorized, fine the offender and require him

him to enter into his own recognizances, and to find sureties, both or either, for keeping the peace and being of good behaviour; and in case of any felony punishable under this Act, the Court may, if it thinks fit, require the offender to enter into his own recognizances, and to find sureties, both or either, for keeping the peace, in addition to any punishment by this Act authorized: Provided that no person shall be imprisoned under this section for not finding sureties, for any period exceeding one year. Proviso.

35. Every offence hereby made punishable on summary conviction or other summary proceedings under this Act, may be prosecuted in the manner directed by the Act of the present session "*respecting the duties of Justices of the Peace out of sessions, in relation to summary convictions and orders*," or in such other manner as may be directed by any Act that may be passed for like purposes, so far as no provision is hereby made for any matter or thing which may be required to be done in course of such prosecution; and all provisions contained in the said Act shall be applicable to such prosecutions in the same manner as if they were incorporated in this Act. Summary proceedings, &c.

36. The Act of the Parliament of the United Kingdom passed in the Session thereof, held in the sixteenth and seventeenth years of Her Majesty's reign, and intituled: "*An Act for the punishment of offences in the Colonies in relation to the Coin*," and the Act of the said Parliament therein cited and amended, shall not apply to or be in force in Canada, after this Act takes effect. Imp. Act, 16, 17 V., c. 48, not to apply in Canada.

37. This Act shall commence and take effect on the first day of January, one thousand eight hundred and seventy. Commencement of Act.

CHAP. 19.

An Act respecting Forgery.

[*Assented to 22nd June*, 1869.]

WHEREAS it is expedient to assimilate, amend and consolidate the Statute Law of the several Provinces of Quebec, Ontario, Nova Scotia and New Brunswick, respecting indictable offences by Forgery, and to extend the same as so consolidated to all Canada: Therefore, Her Majesty, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows:— Preamble.

As

As to forging Her Majesty's Seal, &c.

Forging the great seal, privy seal, &c.

1. Whosoever forges or counterfeits or utters knowing the same to be forged or counterfeited, the Great Seal of the United Kingdom, or the Great Seal of the Dominion of Canada, or of any one of the late Provinces of Upper Canada, Lower Canada or Canada, or of any one of the Provinces of Ontario, Quebec, Nova Scotia or New Brunswick, or of any one of Her Majesty's Colonies or Possessions, Her Majesty's Privy Seal, any Privy Signet of Her Majesty, Her Majesty's Royal Sign Manual, or any of Her Majesty's Seals appointed by the twenty-fourth Article of the Union between England and Scotland to be kept, used and continued in Scotland, the Great Seal of Ireland or the Privy Seal of Ireland, or the Privy Seal or Seal at Arms of the Governor General of Canada, or of the Lieutenant-Governor of either of the Provinces of Ontario, Quebec, Nova Scotia and New Brunswick, or of any person who at any time administered the government of any of the Provinces now constituting Canada, or of the Governor or Lieutenant-Governor of any one of Her Majesty's Colonies or Possessions; or forges or counterfeits the stamp or impression of any of the seals aforesaid, or utters any document or instrument whatsoever, having thereon, or affixed thereto the stamp or impression of any such forged or counterfeited seal, knowing the same to be the stamp or impression of such forged or counterfeited seal, or any forged or counterfeited stamp or impression made or apparently intended to resemble the stamp or impression of any of the seals aforesaid, knowing the same to be forged or counterfeited; or forges, or alters, or utters, knowing the same to be forged or altered, any document or instrument having any of the said stamps or impressions thereon or affixed thereto, is guilty of felony, and shall be liable to be imprisoned in the penitentiary for life or for any term not less than two years, or to be imprisoned in any other gaol or place of confinement for any term less than two years, with or without hard labour, and with or without solitary confinement.

Or uttering document with forged seal.

Forging or uttering any document bearing the forged signature of the Governor, Lieutenant-Governor, &c.

2. Whosoever forges or fraudulently alters any document bearing or purporting to bear the signature of the Governor of Canada, or of any deputy of the Governor, or of the Lieutenant-Governor of any one of the Provinces of Ontario, Quebec, Nova Scotia and New Brunswick, or of any person, who at any time, administered the Government of any of the Provinces now constituting Canada, or offers, utters, disposes of or puts off, any such forged or fraudulently altered document as aforesaid, knowing the same to be so forged or altered, is guilty of felony, and

and shall be liable to be imprisoned in the penitentiary for life or for any term not less than two years, or to be imprisoned in any other gaol or place of confinement for any term less than two years, with or without hard labour, and with or without solitary confinement.

Forging or altering copies of Letters Patent, &c.

3. Whosoever forges or alters, or in any way publishes, puts off, or utters as true, knowing the same to be forged or altered, any copy of letters patent, or of the enrolment or enregistration of letters patent, or of any certificate thereof, made or given, or purporting to be made or given by virtue of any Statute of Canada, of any one of the late Provinces of Upper Canada, Lower Canada, or Canada, or of the Provinces of Ontario, Quebec, Nova Scotia or New Brunswick, is guilty of felony, and shall be liable to be imprisoned in the penitentiary for any term not more than seven years, nor less than two years, or to be imprisoned in any other gaol or place of confinement for any term less than two years, with or without hard labour.

Forging or altering any public Register, &c.

4. Whosoever forges or counterfeits or alters, any public register or book appointed by law to be made or kept, or any entry therein, or wilfully certifies or utters any writing as and for a true copy of such public register or book, or of any entry therein, knowing such writing to be counterfeit or false, is guilty of felony, and shall be liable to be imprisoned in the penitentiary for any term not more than fourteen years, nor less than two years or in any other gaol or place of confinement, for any term less than two years, with or without hard labour, and with or without solitary confinement.

As to forging transfers of stock, &c.

Forging transfer of certain stock, &c., or power of attorney relating thereto.

5. Whosoever forges or alters, or offers, utters, disposes of or puts off, knowing the same to be forged or altered, any transfer of any share or interest of or in any stock, annuity or other public fund which now is or hereafter may be transferable in any of the books of the Dominion of Canada, or of any one of the Provinces of Quebec, Ontario, Nova Scotia, or New Brunswick, respectively, or of any bank at which the same may be transferable, or of or in the capital stock of any body corporate, company or society, which now is or hereafter may be established by charter, or by, under, or by virtue of any Act of Parliament of the United Kingdom or of any of the late Provinces of Upper Canada, Lower Canada or of Canada, or of the Dominion of Canada, or by any Act of the Legislature of either of the Provinces of Ontario, Quebec, Nova Scotia or New Brunswick, or forges or alters, or offers, utters, disposes of, or puts off, knowing the same to

to be forged or altered, any power of attorney or other authority to transfer any share or interest of or in any such stock, annuity, public fund, or capital stock, or any claim for a grant of land from the Crown in Canada, or for any scrip or other payment or allowance in lieu of any such grant of land, or to receive any dividend or money payable in respect of any such share or interest, or demands or endeavors to have any such share or interest transferred, or to receive any dividend or money payable in respect thereof, or any such grant of land, or scrip, or payment, or allowance in lieu thereof as aforesaid, by virtue of any such forged or altered power of attorney or other authority, knowing the same to be forged or altered, with intent in any of the cases aforesaid to defraud, is guilty of felony, and shall be liable to be imprisoned in the penitentiary for life or for any term not less than two years, or to be imprisoned in any other gaol or place of confinement for any term less than two years, with or without hard labour, and with or without solitary confinement.

Personating the owner of certain stock &c., and transferring or receiving, or endeavoring to transfer or receive the dividends.

6. Whosoever falsely and deceitfully personates any owner of any share, or interest of or in any stock, annuity or other public fund, which now is or hereafter may be transferable in any of the books of the Dominion of Canada, or of any one of the Provinces of Quebec, Ontario, Nova Scotia or New Brunswick, or of any bank at which the same may be transferable, or any owner of any share, or interest of or in the capital stock of any body corporate, company or society which now is or hereafter may be established by charter, or by, under, or by virtue of any Act of Parliament of the United Kingdom, or of any of the late Provinces of Upper Canada, Lower Canada or Canada, or of the Dominion of Canada, or by any Act of the Legislature of any one of the Provinces of Ontario, Quebec, Nova Scotia or New Brunswick, or of any claim for a grant of land from the Crown in Canada, or for any scrip or other payment or allowance in lieu of such grant of land, or any owner of any dividend or money payable in respect of any such share or interest as aforesaid, and thereby transfers or endeavors to transfer any share or interest belonging to any such owner, or thereby receives or endeavors to receive any money due to any such owner, or to obtain any such grant of land, or such scrip or allowance in lieu thereof as aforesaid, as if such offender were the true and lawful owner, is guilty of felony, and shall be liable to be imprisoned in the penitentiary for life or for any term not less than two years, or to be imprisoned in any other gaol or place of confinement for any term less than two years, with or without hard labour, and with or without solitary confinement.

7.

Forging attestation to power of attorney for transfer of stock, &c.

7. Whosoever forges any name, handwriting or signature purporting to be the name, hand-writing or signature of a witness attesting the execution of any power of attorney or other authority to transfer any share or interest of or in any such stock, annuity, public fund, or capital stock, or grant of land or scrip or allowance in lieu thereof, as in either of the last two preceding sections mentioned, or to receive any dividend or money payable in respect of any such share or interest, or offers, utters, disposes of, or puts off any such power of attorney, or other authority, with any such forged name, handwriting or signature thereon, knowing the same to be forged, is guilty of felony, and shall be liable to be imprisoned in the penitentiary for any term not exceeding seven years and not less than two years, or to be imprisoned in any other gaol or place of confinement for any term less than two years with or without hard labour and with or without solitary confinement.

Making false entries in the books of public funds.

Or any fraudulent transfer.

8. Whosoever wilfully makes any false entry in, or wilfully alters any word or figure in any of the books of the account kept by the Government of Canada, or of any one of the Provinces of Ontario, Quebec, Nova Scotia or New Brunswick, or of any bank at which any of the books of account of the Government of Canada, or of either of the Provinces of Ontario, Quebec, Nova Scotia or New Brunswick are kept,—in which books the accounts of the owners of any stock, annuities or other public funds, which now are or hereafter may be transferable in such books, are entered and kept, or in any manner wilfully falsifies any of the accounts of any of such owners in any of the said books, with intent in any of the cases aforesaid to defraud, or wilfully makes any transfer of any share or interest of or in any stock, annuity or other public fund which now is or hereafter may be transferable as aforesaid, in the name of any person not being the true and lawful owner of such share or interest, with intent to defraud, is guilty of felony, and shall be liable to imprisonment in the Penitentiary for life, or for any term not less than two years, or to be imprisoned in any other gaol or place of confinement for any term less than two years, with or without hard labour, and with or without solitary confinement.

Clerks making out false dividend warrants, &c.

9. Whosoever, being a clerk, officer or servant of, or other person employed or entrusted by the Government of Canada, or of any one of the Provinces of Ontario, Quebec, Nova Scotia, or New Brunswick, or being a clerk or officer or servant of, or other person employed or entrusted by any bank in which any of such books and accounts as are mentioned in the next preceding section, are kept, knowingly makes out, or delivers any dividend warrant, or warrant for payment of any annuity, interest or money payable as aforesaid,

said, for a greater or less amount than the person on whose behalf such warrant is made out is entitled to, with intent to defraud, is guilty of felony, and shall be liable to be imprisoned in the penitentiary for any term not exceeding seven years, and not less than two years, or to be imprisioned in any other gaol or place of confinement for any term less than two years, with or without hard labour, and with or without solitary confinement.

As to forging debentures, stock, exchequer bills, &c.

Forging debentures, Dominion notes, exchequer bills, bonds, &c., or indorsements thereon, or any coupon certificate, &c.

10. Whosoever forges or alters, or offers, utters, disposes of or puts of, knowing the same to be forged or altered, any debenture or other security, issued under the authority of any Act of the legislature of any one of the late Provinces of Upper Canada, Lower Canada or Canada, or of the Parliament of Canada, or of the Legislature of any one of the Provinces of Quebec, Ontario, Nova Scotia or New Brunswick, or any exchequer bill or exchequer bond, or any Dominion or Provincial note, or any endorsement on or assignment of any such debenture, exchequer bill or exchequer bond, or other security, issued under the authority of any Act of the legislature of any one of the late Provinces of Upper Canada, Lower Canada, or Canada, or of the Parliament of Canada, or of the Legislature of any one of the Provinces of Quebec, Ontario, Nova Scotia or New Brunswick, or any coupon, receipt or certificate for interest accruing thereon, or any scrip in lieu of land as aforesaid, with intent to defraud, is guilty of felony, and shall be liable to be imprisoned in the penitentiary for life, or for any term not less than two years, or to be imprisoned in any other gaol or place of confinement for any term less than two years, with or without hard labour, and with or without solitary confinement.

Making plates, &c., in imitation of those used for debentures, exchequer bills, &c.

11. Whosoever, without lawful authority or excuse (the proof whereof shall lie on the party accused), makes, or causes, or procures to be made, or aids, or assists in making, or knowingly has in his custody or possession, any frame, mould or instrument, having therein any words, letters, figures, marks, lines, or devices, peculiar to or appearing in the substance of any paper provided or to be provided and used for any such debentures, exchequer bills, or exchequer bonds, Dominion Notes or Provincial Notes, or other securities as aforesaid, or any machinery for working any threads into the substance of any such paper, or any such thread, and intended to imitate such words, letters, figures, marks, lines, threads, or devices, or any plate peculiarly employed for printing such debentures, exchequer bills, or exchequer bonds, or such notes, or other securities, or any die or seal peculiarly

peculiarly used for preparing any such plate, or for sealing such debentures, exchequer bills or exchequer bonds, notes or other securities, or any plate, die or seal, intended to imitate any such plate, die, or seal as aforesaid, is guilty of felony, and shall be liable to be imprisoned in the penitentiary for any term not exceeding seven years and not less than two years, or to be imprisoned in any other gaol or place of confinement for any term less than two years, with or without hard labour, and with or without solitary confinement.

Making paper in imitation o that used for debentures exchequer bills, &c.

12. Whosoever, without lawful authority or excuse (the proof whereof shall lie on the party accused), makes, or causes, or procures to be made, or aids or assists in making any paper in the substance of which appear any words, letters, figures, marks, lines, threads or other devices peculiar to and appearing in the substance of any paper provided or to be provided or used for such debentures, exchequer bills, or exchequer bonds, notes, or other securities aforesaid, or any part of such words, letters, figures, marks, lines, threads or other devices, and intended to imitate the same, or knowingly has in his custody or possession any paper whatsoever, in the substance whereof appear any such words, letters, figures, marks, lines, threads or devices as aforesaid, or any parts of such words, letters, figures, marks, lines, threads or other devices and intended to imitate the same, or causes or assists in causing any such words, letters, figures, marks, lines, threads or devices as aforesaid, or any part of such words, letters, figures, marks, lines, threads and other devices, and intended to imitate the same, to appear in the substance of any paper whatever, or takes, or assists in taking an impression of any such plate, die, or seal, as in the last preceding section mentioned, is guilty of felony, and shall be liable to be imprisoned in the penitentiary for any term not exceeding seven years and not less than two years, or to be imprisoned in any other gaol or place of confinement for any term *not** less than two years, with or without hard labour, and with or without solitary confinement.

Having in possession paper, &c., for debentures, exchequer bills, &c

13. Whosoever, without lawful authority or excuse (the proof whereof shall lie on the party accused), purchases, or receives, or knowingly has in his custody or possession, any paper manufactured and provided by or under the directions of the Government of Canada, or of any one of the Provinces of Ontario, Quebec, Nova Scotia or New Brunswick, for the purpose of being used as such debentures, exchequer bills, or exchequer bonds, notes or other securiites as aforesaid, before such paper has been duly stamped, signed and issued for public use, or any such plate, die or seal, as in the two last preceding sections mentioned, is guilty of a misdemeanor, and shall be liable to be imprisoned in any gaol or place of confinement other

* This word inserted by error. French version is correct.

other than a penitentiary, for any term less than two years, with or without hard labour.

As to forging stamps.

Forging stamps or stamped paper.

14. Whosoever forges, counterfeits or imitates or procures to be forged, counterfeited or imitated any stamp or stamped paper, issued or authorized to be used by any Act of the Parliament of Canada, or of the Legislature of any of the Provinces of Quebec, Ontario, Nova Scotia or New Brunswick, by means whereof any duty thereby imposed may be paid, or any part or portion of any such stamp,—or knowingly uses, offers, sells or exposes to sale, any such forged, counterfeited or imitated stamp, or engraves, cuts, sinks or makes, any plate, die or other thing whereby to make or imitate such stamp or any part or portion thereof, except by permission of any officer or person who, being duly authorized in that behalf by the Government of Canada or of any of the Provinces aforesaid, may lawfully grant such permission—or has possession of any such plate, die or other thing, without such permission, or, without such permission, uses or has possession of any such plate, die or thing lawfully engraved, cut or made,—or tears off or removes from any instrument, on which a duty is payable, any stamp by which such duty has been wholly or in part paid, or removes from any such stamp any writing or mark indicating that it has been used for or towards the payment of any such duty,—is guilty of felony, and shall be liable to be imprisoned in the penitentiary for any term not exceeding twenty-one years, and not less than two years, or in any other gaol or place of confinement for any term less than two years, with or without hard labour, and with or without solitary confinement.

Or tools for making the same.

Removing stamps from instruments, &c.

As to forging bank notes.

Forging bank notes, bills, &c.

15. Whosoever forges, or alters, or offers, utters, disposes of, or puts off, knowing the same to be forged or altered, any note or bill of exchange of any body corporate, company or person carrying on the business of bankers, commonly called a bank note, a bank bill of exchange, or bank post bill, or any endorsement on or assignment of any bank note, bank bill of exchange, or bank post bill, with intent to defraud, is guilty of felony, and shall be liable to be imprisoned in the penitentiary for life, or for any term not less than two years, or to be imprisoned in any other gaol or place of confinement for any term less than two years, with or without hard labour, and with or without solitary confinement.

Purchasing or receiving or having

16. Whosoever, without lawful authority or excuse (the proof whereof shall lie on the party accused), purchases or receives

receives from any other person, or has in his custody or possession any forged bank note, bank bill of exchange, or bank post bill, or blank bank note, blank bank bill of exchange, or blank bank post bill, knowing the same to be forged, is guilty of felony, and shall be liable to be imprisoned in the penitentiary for any term not exceeding fourteen years and not less than two years, or to be imprisoned in any other gaol or place of confinement for any term less than two years, with or without hard labor. forged bank notes, &c.

As to making paper and engraving plates, &c., for bank notes, &c.

17. Whosoever, without lawful authority or excuse (the proof whereof shall lie on the party accused), makes or uses, or knowingly has in his custody or possession, any frame, mould or instrument for the making of paper used for Dominion or Provincial notes, or for bank-notes with any words used in such notes, or any part of such words intended to resemble or pass for the same, visible in the substance of the paper, or for the making of paper with curved or waving bar lines, or with laying wire lines thereof in a waving or curved shape, or with any number, sum or amount expressed in a word or words in letters, visible in the substance of the paper, or with any device or distinction peculiar to and appearing in the substance of the paper used for such notes, respectively, or makes, uses, sells, exposes to sale, utters or disposes of, or knowingly has in his custody or possession any paper whatsoever with any words used in such notes, or any part of such words, intended to resemble and pass for the same, visible in the substance of the paper, or any paper with curved or waving bar lines, or with the laying wire lines thereof in a waving or curved shape, or with any number, sum, or amount expressed in a word or words in letters, appearing visible in the substance of the paper, or with any device or distinction peculiar to and appearing in the substance of the paper used for any such notes respectively, or by any art or contrivance causes any such words or any part of such words, intended to resemble and pass for the same, or any device or distinction peculiar to and appearing in the substance of the paper used for any such notes, respectively, to appear visible in the substance of any paper, or causes the numerical sum or amount of any such note, in a word or words in letters to appear visible in the substance of the paper, whereon the same is written or printed, is guilty of felony, and shall be liable to be imprisoned in the penitentiary for any term not exceeding fourteen years and not less than two years, or to be imprisoned in any other gaol or place of confinement for any term less than two years, with or without hard labour. Making or having moulds for making paper with words used for Dominion Notes, Bank Notes, &c., or selling such paper.

18,

Proviso as to paper used for Bills of exchange, &c.

18. Nothing in the last preceding section contained shall prevent any person from issuing any bill of exchange or promissory note having the amount thereof expressed in a numerical figure or figures denoting the amount thereof in pounds or dollars, appearing visible in the substance of the paper upon which the same is written or printed, nor shall prevent any person from making, using or selling any paper having waving or curved lines, or any other devices in the nature of watermarks visible in the substance of the paper, not being bar lines or laying wire lines, provided the same are not so contrived as to form the groundwork or texture of the paper, or to resemble the waving or curved laying wire lines, or bar lines, or the water-marks of the paper used for Dominion notes or Provincial notes, or bank notes, as aforesaid.

Engraving or having any plate, &c., for making Dominion or Provincial notes, or notes of any bank, or having such plate, or uttering or having paper upon which a blank bank note, &c., may be printed.

19. Whosoever, without lawful authority or excuse (the proof whereof shall lie on the party accused), engraves, or in anywise makes upon any plate whatsoever, or upon any wood, stone, or other material, any promissory note, or part of a promissory note, purporting to be a Dominion or Provincial note or bank note, or to be a blank Dominion or Provincial note or bank note, or to be a part of any Dominion or Provincial note or bank note as aforesaid, or any name, word or character, resembling, or apparently intended to resemble any subscription to any such Dominion or Provincial note or bank note, as aforesaid, or use any such plate, wood, stone, or other material, or any other instrument or device for the making or printing of any such note, or part of such note or knowingly has in his custody or possession any such plate, wood, stone, or other material, or any such instrument or device, or knowingly offers, utters, disposes of, or puts off, or has in his custody or possession any paper upon which any blank Dominion or Provincial note or bank note, or part of any such note, or any name, word or character resembling, or apparently intended to resemble, any such subscription, is made or printed, is guilty of felony, and shall be liable to be imprisoned in the penitentiary for any term not exceeding fourteen years and not less than two years, or to be imprisoned in any other gaol or place of confinement for any term less than two years, with or without hard labor, and with or without solitary confinement.

Engraving on a plate, &c., any word, number, or device resembling part of a Dominion or Provincial or bank note, or using or

20. Whosoever, without lawful authority or excuse (the proof whereof shall lie on the party accused), engraves or in anywise makes upon any plate whatsoever, or upon any wood, stone or other material, any word, number, figure, device, character or ornament, the impression taken from which resembles, or is apparently intended to resemble any part of a Dominion or Provincial note or bank note,

note, or uses, or knowingly has in his custody or possession any such plate, wood, stone or other material, or any other instrument or device for the impressing or making upon any paper or any other material any word, number, figure, character or ornament, which resembles, or is apparently intended to resemble any part of any such note as aforesaid, or offers, utters, disposes of or puts off, or has in his custody or possession any paper or other material upon which there is an impression of any such matter as aforesaid, is guilty of felony, and shall be liable to be imprisoned in the penitentiary for any term not exceeding fourteen years and not less than two years, or to be imprisoned in any other gaol or place of confinement for any term less than two years, with or without hard labour, and with or without solitary confinement.

having any such plate, &c., or uttering or having any paper on which any such word, &c., is impressed.

21. Whosoever, without lawful authority or excuse (the proof whereof shall lie on the party accused), makes or uses any frame, mould or instrument for the manufacture of paper with the name or firm of any bank or body corporate, company or person carrying on the business of bankers appearing visible in the substance of the paper, or knowingly has in his custody or possession, any such frame, mould or instrument, or makes, uses, sells, or exposes to sale, utters or disposes of, or knowingly has in his custody or possession any paper in the substance of which the name or firm of any such bank, body corporate, company or person appears visible, or by any art or contrivance causes the name or firm of any such bank, body corporate, company or person to appear visible in the substance of the paper upon which the same is written or printed, is guilty of felony and shall be liable to be imprisoned in the penitentiary for any term not exceeding fourteen years, and not less than two years, or to be imprisoned in any other gaol or place of confinement for any term less than two years, with or without hard labour, and with or wihout solitary confinement,

Making or having mould for making paper with the name of any bank, or making or having such paper.

22. Whosoever forges or alters, or offers, utters, disposes of or puts off, knowing the same to be forged or altered, any bill of exchange, promissory note, undertaking or order for payment of money, in whatever language or languages the same may be expressed, and whether the same is or is not under seal, purporting to be the bill, note, undertaking or order of any foreign Prince or State, or of any minister or officer in the service of any foreign Prince or State, or of any body corporate or body of the like nature constituted or recognized by any foreign Prince or State, or of any person or company of persons resident in any country not under the dominion of Her Majesty, or whosoever, without lawful authority or ex-

Engraving plates for foreign bills or notes, or using or having such plates, or uttering paper on which any part of such bill or note is printed.

cuse (the proof whereof shall lie on the party accused) engraves or in any wise makes upon any plate whatever, or upon any wood, stone or other material, any bill of exchange, promissory note, undertaking, or order for payment of money, in whatsoever language the same may be expressed, and whether the same is or is not intended to be under seal, purporting to be the bill, note, undertaking or order, or part of the bill, note, undertaking or order, of any foreign Prince or State, or of any minister or officer in the service of any foreign Prince or State, or of any body corporate, or body of the like nature, constituted or recognized by any foreign Prince or State, or of any person or company of persons resident in any country not under the dominion of Her Majesty, or uses or knowingly has in his custody or possession any plate, stone, wood, or other material, upon which any such foreign bill, note, undertaking or order, or any part thereof, is engraved or made, or knowingly offers, utters, disposes of, or puts off, or has in his custody or possession, any paper upon which any part of any such foreign bill, note, undertaking or order is made, or printed, is guilty of felony, and shall be liable to be imprisoned in the penitentiary for any term not exceeding fourteen years and not less than two years, or to be imprisoned in any other gaol or place of confinement for any term less than two years, with or without hard labour, and with or without solitary confinement.

As to forging deeds, wills, bills of exchange, &c.

Forging deeds, bonds, &c., or uttering the same.

23 Whosoever, with intent to defraud, forges, or alters, or offers, utters, disposes of, or puts off, knowing the same to be forged or altered, any deed, or any bond, or writing obligatory, or any assignment at law or in equity, of any such bond or writing obligatory or forges any name, hand-writing or signature purporting to be the name, hand-writing or signature of a witness attesting the execution of any deed, bond or writing obligatory, or offers, utters, disposes of, or puts off, any deed, bond or writing obligatory, having thereon any such forged name, hand-writing or signature, knowing the same to be forged, is guilty of felony, and shall be liable to be imprisoned in the penitentiary for life, or for any term not less than two years, or to be imprisoned in any other gaol or place of confinement for any term less than two years, with or without hard labour, and with or without solitary confinement.

Forging wills.

24. Whosoever, with intent to defraud, forges or alters, or offers, utters, disposes of, or puts off, knowing the same to be forged or altered, any will, testament, codicil, or testamentary instrument, is guilty of felony, and shall be liable to be imprisoned in the penitentiary for life or for any

any term not less than two years, or to be imprisoned in any other gaol or place of confinement for any term less than two years, with or without hard labour, and with or without solitary confinement.

Forging bills of exchange or promissory notes.

25. Whosoever forges or alters, or offers, utters, disposes of, or puts off, knowing the same to be forged or altered, any bill of exchange, or any acceptance, indorsement or assignment of any bill of exchange, or any promissory note for the payment of money, or any indorsement on or assignment of any such promissory note, with intent to defraud, is guilty of felony, and shall be liable to be imprisoned in the penitentiary for life or for any term not less than two years, or to be imprisoned in any other gaol or place of confinement for any term less than two years, with or without hard labour, and with or without solitary confinement.

Forging orders, receipts &c., for money, goods, &c.

26. Whosoever forges, or alters, or offers, utters, disposes of, or puts of, knowing the same to be forged or altered, any undertaking, warrant, order, authority, or request, for the payment of money, or for the delivery or transfer of any goods or chattels, or of any note, bill, or other security for the payment of money, or for procuring or giving credit, or any indorsement on or assignment of any such undertaking, warrant, order, authority, or request, or any accountable receipt, acquittance or receipt for money or for goods, or for any note, bill, or other security for the payment of money, or any indorsement on or assignment of any such accountable receipt, or any account, book or thing written or printed or otherwise made capable of being read, with intent, in any of the cases aforesaid, to defraud, is guilty of felony, and shall be liable to be imprisoned in the penitentiary for life or for any term not less than two years, or to be imprisoned in any other gaol or place of confinement for any term less than two years, with or without hard labour, and with or without solitary confinement.

Making or accepting any bill, &c., by procuration, without lawful authority, or uttering such bill, with intent to defraud.

27. Whosoever, with intent to defraud, draws, makes, signs, accepts or indorses, any bill of exchange or promissory note, or any undertaking, warrant, order, authority, or request for the payment of money, or for the delivery or transfer of goods or chattels, or of any bill, note, or other security for money, by procuration or otherwise, for, in the name, or on the account of any other person, without lawful authority or excuse, or offers, utters, disposes of, or puts off, any such bill, note, undertaking, warrant, order, authority, or request, so drawn, made, signed, accepted, or indorsed by procuration or otherwise, without lawful authority or excuse, as aforesaid, knowing the same to have been so drawn, made, signed, accepted, or indorsed as aforesaid, is guilty of felony,

felony, and shall be liable to be imprisoned in the penitentiary for any term not exceeding fourteen years and not less than two years, or to be imprisoned in any other gaol or place of confinement for any term less than two years, with or without hard labour, and with or without solitary confinement.

Obliterating crossing on cheques.

28. Whenever any cheque or draft on any banker is crossed with the name of a banker, or with two transverse lines with the words "and company," or any abbreviation thereof, whosoever obliterates, adds to, or alters any such crossing, or offers, utters, disposes of, or puts off, any cheque or draft whereon any such obliteration, addition, or alteration has been made, knowing the same to have been made, with intent in any of the cases aforesaid to defraud, is guilty of felony, and shall be liable to be imprisoned in the penitentiary for life or for any term not less than two years, or to be imprisoned in any other gaol or place of confinement for any term less than two years, with or without hard labour, and with or without solitary confinement.

Forging debentures.

29. Whosoever fraudulently forges, or alters, or offers, utters, disposes of, or puts off, knowing the same to be forged or fraudulently altered, any debenture issued under any lawful authority whatsoever, either within Her Majesty's dominions, or elsewhere, is guilty of felony, and shall be liable to be imprisoned in the penitentiary for any term not exceeding fourteen years and not less than two years, or to be imprisoned in any other gaol or place of confinement for any term less than two years, with or without hard labour, and with or without solitary confinement.

As to forging private marks, &c.

Forging such marks.

30. Whosoever knowingly and wilfully, and with intent to defraud, forges or counterfeits, or causes or procures to be forged or counterfeited any private or trade mark, token, stamp or label of any manufacturer, mechanic or other person, upon or with respect to any goods, wares or merchandise whatsoever, is guilty of felony, and shall be liable to be imprisoned in any common gaol or place of confinement other than a penitentiary for any term less than two years.

Vending goods falsely marked.

31. Whosoever vends any goods, wares or merchandise, having thereon any forged or counterfeited private or trade mark, token, stamp or label, purporting to be the private mark, token, stamp or label of any other person, knowing the same at the time of the sale thereof by him, to be forged or

or counterfeited, is guilty of a misdemeanor, and shall be liable to be imprisoned in any common gaol or place of confinement other than a penitentiary for any term not exceeding six months, or to a fine of not more than one hundred dollars or both, in the discretion of the court.

Forging Railway tickets, &c.

32. Whosoever knowingly forges, or utters, knowing the same to be forged, any ticket or order for a free or paid passage on any Railway or on any Steam or other Vessel, with intent to defraud, is guilty of felony, and shall be liable to be imprisoned in the penitentiary for a term not exceeding three years nor less than two years, or to be imprisoned in any common gaol or place of confinement other than a penitentiary for any term less than two years.

As to forging records, process, instruments of evidence, &c.

Forging proceedings of Courts of Record or Courts of Equity, &c.

33. Whosoever forges or fraudulently alters or offers, utters, disposes of, or puts off, knowing the same to be forged or fraudulently altered, any record, writ, return, panel, process, rule, order, warrant, interrogatory, deposition, affidavit, affirmation, recognizance, *cognovit actionem*, or warrant of attorney, or any original document whatsoever, of or belonging to any Court of Record, or any bill, petition, process, notice, rule, answer, pleading, interrogatory, deposition, affidavit, affirmation, report, order, or decree, or any original document whatsoever of or belonging to any Court of Equity or Court of Admiralty, or any original document whatsoever of or belonging to any court of justice, or any document or writing, or any copy of any document or writing, used or intended to be used as evidence in any court in this section mentioned, is guilty of felony, and shall be liable to be imprisoned in the penitentiary for any term not exceeding seven years and not less than two years, or to be imprisoned in any other gaol or place of confinement for any term less than two years, with or without hard labour, and with or without solitary confinement.

Uttering false copies or certificates of records, or process; of Courts not of record, or using forged process.

34. Whosoever, being the clerk for any court, or other officer having the custody of the records of any court, or being the deputy of any such clerk or officer, utters any false copy or certificate of any record, knowing the same to be false; and whosoever, other than such clerk, officer or deputy, signs or certifies any copy or certificate of any record as such clerk, officer or deputy; and whosoever forges or fraudulently alters, or offers, utters, disposes of or puts off, knowing the same to be forged or fraudulently altered, any copy or certificate of any record, or offers, utters, disposes of or puts off, any copy or certificate of any record having thereon any false

false or forged name, hand-writing or signature, knowing the same to be false or forged; and whosoever forges the seal of any court of record, or forges or fraudulently alters any process of any court whatsoever, or serves or enforces any forged process of any court whatsoever, knowing the same to be forged, or delivers or causes to be delivered to any person any paper, falsely purporting to be any such process, or a copy thereof, or to be any judgment, decree or order of any court of law or equity, or a copy thereof, knowing the same to be false, or acts or professes to act under any such false process, knowing the same to be false, is guilty of felony, and shall be liable to be imprisoned in the penitentiary for any term not exceeding seven years and not less than two years, or to be imprisoned in any other gaol or place of confinement for any term less than two years, with or without hard labour, and with or without solitary confinement.

Forging instruments made evidence by any Act of Parliament, &c.

35. Whosoever forges or fraudulently alters or offers, utters, disposes of or puts off, knowing the same to be forged or fraudulently altered, any instrument, whether written or printed, or partly written and partly printed, which is or shall be made evidence by any Act passed by the legislature of any one of the late Provinces of Upper Canada, Lower Canada or Canada, or passed or to be passed by the Parliament of Canada or by the legislature of any one of the Provinces of Ontario, Quebec, Nova Scotia or New Brunswick, and for which offence no other punishment is herein provided, is guilty of felony, and shall be liable to be imprisoned in the penitentiary for any term not exceeding seven years nor less than two years, or to be imprisoned in any other gaol or place of confinement for any term less than two years, with or without hard labour, and with or without solitary confinement.

Document may be impounded on request of parties against whom it may have been used.

36. Whenever any such instrument has been admitted in evidence, the court or the judge or person who has admitted the same, may at the request of any party against whom the same has been admitted in evidence, direct that the same shall be impounded and be kept in custody of some officer of the court or other proper person, for such period, and subject to such conditions as to the court, judge or person admitting the same, may seem meet.

As to forging notarial acts, registers of deeds, &c.

Forgery as to notarial instruments, or other authen-

37. Whosoever forges or fraudulently alters, or offers, utters, disposes of or puts off, knowing the same to be forged or fraudulently altered, any notarial act or instrument, or copy,

copy, purporting to be an authenticated copy thereof, or any *proces verbal* of a surveyor, or like copy thereof, or forges or fraudulently alters, or offers, or utters, disposes of, puts off, knowing the same to be forged or fraudulently altered, any duplicate of any instrument, or any memorial, affidavit, affirmation, entry, certificate, indorsement, document, or writing, made or issued under the provisions of any Act heretofore passed by the legislature of any one of the late Provinces of Upper Canada, Lower Canada, or Canada, or passed or hereafter to be passed by the Parliament of Canada, or by the Legislature of any one of the Provinces of Ontario, Quebec, Nova Scotia, or New Brunswick, for or relating to the registry of deeds, or other instruments or documents respecting or concerning the title to or claims upon any real or personal property whatever, or forges, or counterfeits the seal of or belonging to any office for the registry of deeds, or other instruments as aforesaid, or any stamp or impression of any such seal; or forges any name, hand-writing or signature, purporting to be the name, hand-writing or signature of any person to any such memorial, affidavit, affirmation, entry, certificate, indorsement, document, or writing, required or directed to be signed by or by virtue of any Act, passed or to be passed, or offers, utters, disposes of, or puts off, any such memorial or other writing as in this section before mentioned, having thereon any such forged stamp or impression of any such seal, or any such forged name, hand-writing or signature, knowing the same to be forged, is guilty of felony, and shall be liable to be imprisoned in the penitentiary, for any term not exceeding fourteen years and not less than two years, or to be imprisoned in any other gaol or place of confinement for any term less than two years, with or without hard labour, and with or without solitary confinement.

tic documents, or as to the registry of deeds.

As to forging orders, &c., of Justices of the Peace.

38. Whosoever, with intent to defraud, forges or alters, or offers, utters, disposes of or puts off, knowing the same to be forged or altered, any summons, conviction, order or warrant, of any Justice of the Peace, or any recognizance purporting to have been entered into before any Justice of the Peace or other officer authorized to take the same, or any examination, deposition, affidavit, affirmation or solemn declaration, taken or made before any Justice of the Peace, is guilty of felony, and shall be liable to be imprisoned in the penitentiary for any term not exceeding three years nor less than two years, or to be imprisoned in any other gaol or place of confinement for any term less than two years, with or without hard labour, and with or without solitary confinement.

Forging orders of justices, recognizances, affidavits, &c.

As

As to forging the names of Judges, &c.

Forging name of Judge, &c.

39. Whosoever, with intent to defraud, forges or alters any certificate, report, entry, indorsement, declaration of trust, note, direction, authority, instrument or writing made or purporting or appearing to be made by any judge, officer or clerk, of any court in Canada, or the name, hand-writing or signature of any such judge, officer or clerk, as aforesaid, or offers, utters, disposes of, or puts off any such certificate, report, entry, indorsement, declaration of trust, note, direction authority, instrument or writing knowing the same to be forged or altered, is guilty of felony, and shall be liable to be imprisoned in the penitentiary for any term not exceeding fourteen years and not less than two years, or to be imprisoned in any other gaol or place of confinement for any term less than two years, with or without hard labour, and with or without solitary confinement.

As to falsely acknowledging recognizances, &c.

Acknowledging recognizance, bail, *cognovit*, &c., in the name of another.

40. Whosoever, without lawful authority or excuse (the proof whereof shall lie on the party accused), in the name of any other person, acknowledges any recognizance of bail, or any *cognovit actionem*, or judgment, or any deed or other instrument, before any court, judge, notary, or other person lawfully authorized in that behalf, is guilty of felony, and shall be liable to be imprisoned in the penitentiary for any term not exceeding seven years and not less than two years, or to be imprisoned in any other gaol or place of confinement for any term less than two years, with or without hard labour, and with or without solitary confinement.

As to forging marriage licenses.

Forging or uttering forged marriage license or certificate.

41. Whosoever forges or fraudulently alters any license or certificate for marriage, or offers, utters, disposes of or puts off any such license or certificate, knowing the same to be forged or fraudulently altered, is guilty of felony, and shall be liable to be imprisoned in the penitentiary for any term not exceeding seven years and not less than two years, or to be imprisoned in any other gaol or place of confinement for any term less than two years, with or without hard labour, and with or without solitary confinement.

As to forging registers of births, marriages, and deaths.

Forging or defacing, &c., registers of births, bap-

42. Whosoever unlawfully destroys, defaces or injures, or causes or permits to be destroyed, defaced or injured, any register of births, baptisms, marriages, deaths or burials, which now

now is or hereafter shall be by law authorized or required to be kept in Canada or in any one of the Provinces of Ontario, Quebec, Nova Scotia or New Brunswick, or any part of any such register, or any certified copy of any such register, or of any part thereof, or forges or fraudulently alters in any such register any entry relating to any birth, baptism, marriage, death or burial, or any part of any such register, or any certified copy of such register, or of any part thereof, or knowingly and unlawfully inserts, or causes or permits to be inserted in any such register, or in any certified copy thereof, any false entry of any matter relating to any birth, baptism, marriage, death or burial, or knowingly and unlawfully gives any false certificate relating to any birth, baptism, marriage, death or burial, or certifies any writing to be a copy or extract from any such register, knowing such writing, or the part of such register whereof such copy or extract is so given, to be false in any material particular, or forges or counterfeits the seal of or belonging to any register office or burial board, or offers, utters, disposes of, or puts off any such register, entry, certified copy, certificate or seal, knowing the same to be false, forged or altered, or offers, utters, disposes of, or puts off any copy or any entry in any such register, knowing such entry to be false, forged or altered, is guilty of felony, and shall be liable to be imprisoned in the penitentiary for life, or for any term not less than two years, or to be imprisoned in any other gaol or place of confinement for any term less than two years, with or without hard labour, and with or without solitary confinement.

tisms, marriages, deaths or burials.

Or uttering the same.

43. Whosoever knowingly and wilfully inserts, or causes or permits to be inserted, in any copy of any register directed or required by law to be transmitted to any Registrar or other officer, any false entry of any matter relating to any baptism, marriage or burial, or forges, or alters, or offers, utters, disposes of, or puts off, knowing the same to be forged or altered, any copy of any register so directed or required to be transmitted as aforesaid, or knowingly or wilfully signs or verifies any copy of any register so directed or required to be transmitted as aforesaid, which copy is false in any part thereof, knowing the same to be false, or unlawfully destroys, defaces or injures, or for any fraudulent purpose, takes from its place of deposit, or conceals any such copy of any register, is guilty of felony, and shall be liable to be imprisoned in the penitentiary for life, or for any term not less than two years, or to be imprisoned in any other gaol or place of confinement for any term less than two years with or without hard labour, and with or without solitary confinement.

Making false entries in copies of register sent to Registrar.

As

As to demanding property upon forged instruments.

Demanding property upon forged instruments.

44. Whosoever, with intent to defraud, demands, receives, or obtains, or causes or procures to be delivered or paid to any person, or endeavors to receive or obtain, or to cause or procure to be delivered or paid to any person, any chattel, money, security for money, or other property whatsoever, under, upon, or by virtue of any forged or altered instrument whatsoever, knowing the same to be forged or altered, or under, upon, or by virtue of any probate or letters of administration, knowing the will, testament, codicil, or testamentary writing, on which such probate or letters of administration are obtained, to have been forged or altered, or knowing such probate or letters of administration to have been obtained by any false oath, affirmation or affidavit, is guilty of felony, and shall be liable to be imprisoned in the penitentiary for any term not exceeding fourteen years and not less than two years, or to be imprisoned in any other gaol or place of confinement for any term less than two years, with or without hard labour, and with or without solitary confinement.

As to cases not otherwise provided for.

Forging any document or writing whatsoever.

45. Whosoever maliciously and for any purpose of fraud or deceit, forges any document or thing writtten, printed or otherwise made capable of being read, or utters any such forged document or thing knowing the same to be forged, is guilty of felony and shall be liable to be imprisoned in the penitentiary for life, or for any term not less than two years, or to be imprisoned in any other gaol or place of confinement for any term less than two years, with or without hard labour, and with or without solitary confinement; and the wilful alteration for any purpose of fraud or deceit, of any such document or thing or of any document or thing the forging of which is made penal by this Act, shall be held to be a forging thereof.

As to other matters.

Forging any instrument, however designated, which is in law a will, bill of exchange, &c.

46. Where by this or any other Act any person is or shall hereafter be made liable to punishment for forging or altering, or for offering, uttering, disposing of, or putting off, knowing the same to be forged or altered, any instrument or writing designated in such Act by any special name or description, and such instrument or writing, however designated, is in law a will, testament, codicil or testamentary writing, or a deed, bond, or writing obligatory, or a bill of exchange or a promissory note for the payment of money, or an indorsement

dorsement on, or assignment of a bill of exchange or promissory note for the payment of money, or an acceptance of a bill of exchange, or an undertaking, warrant, order, authority, or request for the payment of money, or an indorsement on or assignment of an undertaking, warrant, order, authority, or request for the payment of money, within the true intent and meaning of this Act, in every such case the person forging or altering such instrument or writing, or offering, uttering, disposing of, or putting off such instrument or writing, knowing the same to be forged or altered, may be indicted as an offender against this Act, and punished accordingly.

Forging, &c., in Canada, documents purporting to be made, or actually made out of Canada, or forging, &c., in Canada, bills, &c., purporting to be payable out of Canada.

47. Where the forging or altering any writing or matter whatsoever, or the offering, uttering, disposing of, or putting off any writing or matter whatsoever, knowing the same to be forged or altered, is in this Act expressed to be an offence, if any person in Canada forges, or alters, or offers, utters, disposes of, or puts off, knowing the same to be forged or altered, any such writing or matter, in whatsoever country or place out of Canada, whether under the dominion of Her Majesty or not, such writing or matter may purport to be made or may have been made, and in whatever language the same or any part thereof may be expressed, every such person, and every person aiding, abetting, or counselling such person, shall be deemed to be an offender within the meaning of this Act, and shall be punishable thereby in the same manner as if the writing or matter had purported to be made or had been made in Canada; and if any person in Canada forges, or alters, or offers, utters, disposes of, or puts off, knowing the same to be forged or altered, any bill of exchange, or any promissory note for the payment of money, or any indorsement on or assignment of any bill of exchange or promissory note for the payment of money, or any acceptance of any bill of exchange, or any undertaking, warrant, order, authority, or request for the payment of money, or for the delivery or transfer of any goods or security, or any deed, bond, or writing obligatory for the payment of money, (whether such deed, bond, or writing obligatory is made only for the payment of money, or for the payment of money together with some other purpose,) or any indorsement on or assignment of any such undertaking, warrant, order, authority, request, deed, bond, or writing obligatory, in whatsoever place or country out of Canada, whether under the dominion of Her Majesty or not, the money payable or secured by such bill, note, undertaking, warrant, order, authority, request, deed, bond or writing obligatory may be or may purport to be payable, and in whatever language the same respectively or any part thereof may be expressed, and whether such bill, note, undertaking, warrant, order, authority, or request, be or be not under seal, every such person

son and every person aiding, abetting or counselling such person, shall be deemed to be an offender within the meaning of this Act, and shall be punishable thereby in the same manner as if the money had been payable or had purported to be payable in Canada.

Forgers, &c., may be tried in the county where they are apprehended or are in custody.

48. Whosoever commits any offence against this Act, or commits any offence of forging, or altering any matter whatsoever, or of offering, uttering, disposing of, or putting off, any matter whatsoever, knowing the same to be forged or altered, whether the offence in any such case be indictable at common law, or by virtue of any Act passed or to be passed, may be dealt with, indicted, tried and punished in any district, county or place in which he is apprehended or in custody, in the same manner in all respects as if the offence had been actually committed in that district, county or place; and every accessory before or after the fact to any such offence, if the same be a felony, and every person aiding, abetting, or counselling the commission of any such offence, if the same be a misdemeanor, may be dealt with, indicted, tried, and punished, in any district, county or place in which he shall be apprehended, or be in custody, in the same manner in all respects as if his offence, and the offence of his principal, had been actually committed in such district, county, or place.

Accessories or abettors.

Description of instrument in indictments for forgery.

49. In any indictment for forging, altering, offering, uttering, disposing of or putting off any instrument, stamp, mark or thing, it shall be sufficient to describe the same by any name or designation by which the same may be usually known, or by the purport thereof, without setting out any copy or *fac-simile* thereof, or otherwise describing the same or the value thereof.

Description of instrument in indictments for engraving, &c.

50. In any indictment for engraving or making the whole or any part of any instrument, matter or thing whatsoever, or for using or having the unlawful custody or possession of any plate or other material upon which the whole or any part of any instrument, matter, or thing whatsoever has been engraved or made, or for having the unlawful custody or possession of any paper upon which the whole or any part of any instrument, matter, or thing whatsoever has been made or printed, it shall be sufficient to describe such instrument, matter, or thing by any name or designation by which the same may be usually known, without setting out any copy or *fac-simile* of the whole or any part of such instrument, matter or thing.

Intent to defraud particular persons,

51. It shall be sufficient in any indictment for forging, altering, uttering, offering, disposing of, or putting off any instrument,

instrument, whatsoever, where it shall be necessary to allege an intent to defraud, to allege that the party accused did the act with intent to defraud, without alleging an intent to defraud any particular person; and on the trial of any such offence it shall not be necessary to prove an intent to defraud any particular person, but it shall be sufficient to prove that the party accused did the act charged with an intent to defraud. need not be alleged or proved.

52. Where the having any matter or thing in the custody or possession of any person is in this Act expressed to be an offence, if any person has any such matter or thing in his personal custody and possession, or knowingly and wilfully has any such matter or thing in the actual custody and possession of any other person, or knowingly and wilfully has any such matter or thing in any dwelling-house or other building, lodging, apartment, field, or other place, open or enclosed, whether belonging to or occupied by himself or not, and whether such matter or thing is so had for his own use, or for the use or benefit of another, every such person shall be deemed and taken to have such matter or thing in his custody or possession within the meaning of this Act. Interpretation as to criminal possession.

53. If it is made to appear, by information on oath or affirmation before a Justice of the Peace, that there is reasonable cause to believe that any person has in his custody or possession without lawful authority or excuse, any Dominion or Provincial Note, or any note or bill of any bank or body corporate, company, or person carrying on the business of bankers, or any frame, mould, or implement for making paper in imitation of the paper used for such notes or bills, or any such paper, or any plate, wood, stone, or other material, having thereon any words, forms, devices, or characters capable of producing or intended to produce the impression of any such note or bill, or any part thereof, or any tool, implement, or material used or employed, or intended to be used or employed in or about any of the operations aforesaid, or any forged security, document, or instrument whatsoever, or any machinery, frame, mould, plate, die, seal, paper, or other matter or thing used or employed, or intended to be used or employed, in the forgery of any security, document or instrument whatsoever, such justice may, if he think fit, grant a warrant to search for the same; and if the same is found upon such search, it shall be lawful to seize and carry the same before some justice of the district, county or place, to be by him disposed of according to law; and all such matters and things so seized as aforesaid shall by order of the court where any such offender is tried, or in case there be no such trial, then by order of some Justice of the Peace, be defaced and destroyed, Search for paper or implements employed in any forgery, and for forged instruments. Destroying the same.

destroyed, or otherwise disposed of as such court or justice may direct.

Competency of witnesses on trial, &c.

Competency of witnesses on trial.

54. In all prosecutions by indictment or information against any person or persons for any offence punishable under this Act, no person shall be deemed an incompetent witness, in support of the prosecution by reason of any interest which such person may have or be supposed to have in respect of any deed, writing, instrument or other matter given in evidence on the trial of such indictment or information; but the evidence of any person or persons so interested or supposed to be interested shall in no case be deemed sufficient to sustain a conviction for any of the said offences unless the same is corroborated by other legal evidence in support of such prosecution.

Proviso.

Other punishments substituted for those of 5 Eliz., c. 14.

55. Whosoever, after the commencement of this Act, is convicted of any offence which has been subjected by any Act or Acts to the same pains or penalties as are imposed by the Act passed in the fifth year of the reign of Queen Elizabeth, intituled: "*An Act against forgers of false deeds and writings*," for any of the offences first enumerated in the said Act, is guilty of felony, and shall, in lieu of such pains and penalties, be liable to be imprisoned in the penitentiary for any term not exceeding fourteen years and not less than two years, or to be imprisoned in any other gaol or place of confinement for any term less than two years, with or without hard labour, and with or without solitary confinement.

All forgeries which were capital, or punishable more severely than under this Act, and are not otherwise punishable under this Act, shall be punished with imprisonment.

56. Where by any Act now in force in any Province of Canada, any person falsely making, forging, counterfeiting, erasing, or altering any matter whatsoever, or uttering, publishing, offering, disposing of, putting away, or making use of any matter whatsoever, knowing the same to have been falsely made, forged, counterfeited, erased, or altered, or any person demanding, or endeavouring to receive or have anything, or to do or to cause to be done any act, upon or by virtue of any matter whatsoever, knowing such matter to have been falsely made, forged, counterfeited, erased, or altered,—or where by any such Act now in force any person falsely personating another, or falsely acknowledging anything in the name of another, or falsely representing any other person than the real party to be such real party, or wilfully making a false entry in any book, account or document, or in any manner wilfully falsifying any part of any book, account or document, or wilfully making a transfer of any stock, annuity or fund in the name of any person not being the owner thereof, or knowingly taking any false oath,

or

or knowingly making any false affidavit or false affirmation, or demanding or receiving any money or other thing by virtue of any probate or letters of administration, knowing the will on which such probate shall have been obtained to have been false or forged, or knowing such probate or letters of administration to have been obtained by means of any false oath or false affirmation; or where by any such Act now in force any person making or using or knowingly having in his custody or possession any frame, mould or instrument for the making of paper, with certain words visible in the substance thereof, or any person making such paper, or causing certain words to appear visible in the substance of any paper, would, according to the provisions contained in any such Act, be guilty of felony, and be liable to any greater punishment than is provided by this Act, then and in each of the several cases aforesaid, if any person after the commencement of this Act is convicted of any such felony as is hereinbefore in this section mentioned, or of aiding, abetting, counselling, or procuring the commission thereof, and the same is not punishable under any of the other provisions of this Act, every such person shall be liable to be imprisoned in the penitentiary for life or for any term not less than two years, or to be imprisoned in any other gaol or place of confinement for any term less than two years, with or without hard labour, and with or without solitary confinement.

Accessories after the fact, to felonies, how punishable.

57. Every accessory after the fact to any felony punishable under this Act, shall be liable to be imprisoned in any gaol or place of confinement, other than the penitentiary, for any term less than two years, with or without hard labour, and with or without solitary confinement; and every person who aids, abets, counsels or procures the commission of any misdemeanor punishable under this Act, shall be liable to be proceeded against, indicted and punished, as a principal offender.

Or to misdemeanors.

Fine and sureties for keeping the peace; in what cases

58. Whenever any person is convicted of a misdemeanor under this Act, the court may, if it thinks fit, in addition to or in lieu of any of the punishments by this Act authorized, fine the offender, and require him to enter into his own recognizances, and to find sureties, both or either, for keeping the peace and being of good behaviour; and in all cases of felonies in this Act mentioned, the court may, if it thinks fit, require the offender to enter into his own recognizances, and to find sureties, both or either, for keeping the peace, in addition to any of the punishments by this Act authorized: Provided that no person shall be imprisoned under this section for not finding sureties, for any period exceeding one year.

Proviso.

59.

Commencement of Act.

59. This Act shall commence and take effect on the first day of January, one thousand eight hundred and seventy.

CHAP. 20.

An Act respecting Offences against the Person.

[*Assented to 22nd June*, 1869.]

Preamble.

WHEREAS it is expedient to assimilate, amend and consolidate the Statute Law of the several Provinces of Quebec, Ontario, Nova Scotia and New Brunswick, relating to offences against the person and to extend the same as so consolidated to all Canada: Therefore, Her Majesty, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows:—

Homicide.

Murder.

1. Whosoever is convicted of murder shall suffer death as a felon.

Sentence for murder.

2. Upon every conviction for murder, the court shall pronounce sentence of death, and the same may be carried into execution, and all other proceedings upon such sentence and in respect thereof may be had and taken in the same manner, and the court before which the conviction takes place shall have the same powers in all respects, as after a conviction for any other felony for which a prisoner may be sentenced to suffer death as a felon.

Conspiring or soliciting to murder.

3. All persons who conspire, confederate and agree to murder any person, whether he be a subject of Her Majesty or not, and whether he be within the Queen's dominions or not, and whosoever solicits, encourages, persuades, endeavours to persuade or proposes to any person to murder any other person, whether he be a subject of Her Majesty or not, and whether he be within the Queen's dominions or not, are and is guilty of a misdemeanor, and shall be liable to be imprisoned in the penitentiary for any term not exceeding ten years and not less than two years, or to be imprisoned in any other gaol or place of confinement for any term less than two years, with or without hard labour

Punishment of accessories after the fact.

4. Every accessory after the fact to murder, shall be liable to be imprisoned in the penitentiary for life or for any term not less than two years, or to be imprisoned in any other gaol or place of confinement for any term less than two years, with or without hard labour.

5

Manslaughter

5. Whosoever is convicted of manslaughter shall be liable to be imprisoned in the penitentiary for life or for any term not less than two years, or to be imprisoned in any other gaol or place of confinement for any term less than two years, with or without hard labour, or to pay such fine as the court may award, in addition to or without any such other discretionary punishment as aforesaid.

Indictment for murder or manslaughter

6. In any indictment for murder or manslaughter, or for being an accessory to any murder or manslaughter, it shall not be necessary to set forth the manner in which, or the means by which, the death of the deceased was caused, but it shall be sufficient in any indictment for murder to charge that the defendant did feloniously, wilfully, of his malice aforethought, kill and murder the deceased; and it shall be sufficient in any indictment for manslaughter to charge that the defendant did feloniously kill and slay the deceased; and it shall be sufficient in any indictment against any accessory to any murder or manslaughter to charge the principal with the murder or manslaughter (as the case may be), in the manner hereinbefore specified, and then to charge the defendant as an accessory, in the manner heretofore used and accustomed, or by law provided.

Excusable homicide.

7. No punishment or forfeiture shall be incurred by any person who kills another by misfortune, or in his own defence, or in any other manner without felony.

Petit treason.

8. Every offence which before the abolition of the crime of petit treason, would have amounted to petit treason, shall be deemed to be murder only, and no greater offence; all persons guilty in respect thereof, whether as principals or accessories, shall be dealt with, indicted, tried and punished as principals and accessories in murder.

Provision for trial of murder or manslaughter; where the death or cause of death only happens in Canada.

9. Where any person, being feloniously stricken, poisoned, or otherwise hurt, upon the sea, or at any place out of Canada, shall die of such stroke, poisoning, or hurt, in Canada, or, being feloniously stricken, poisoned, or otherwise hurt at any place in Canada, shall die of such stroke, poisoning, or hurt, upon the sea, or at any place out of Canada, every offence committed in respect of any such case, whether the same amounts to murder or manslaughter, or of being accessory to murder or manslaughter, may be dealt with, inquired of, tried, determined and punished in the district, county or place in Canada in which such death, stroke, poisoning, or hurt happens, in the same manner in all respects as if such offence had been wholly committed in that district, county or place.

Attempts to murder.

Administering poison, or wounding with intent to murder.

10. Whosoever administers or causes to be administered or to be taken by any person, any poison or other destructive thing, or by any means whatsoever, wounds or causes any grievous bodily harm to any person, with intent, in any of the cases aforesaid, to commit murder, is guilty of felony, and shall suffer death as a felon.

Destroying or damaging a building with gunpowder, with intent to murder.

11. Whosoever, by the explosion of gunpowder or other explosive substance, destroys, or damages any building, with intent to commit murder, is guilty of felony and shall be liable to be imprisoned in the penitentiary for life, or for any term not less than two years, or to be imprisoned in any other gaol or place of confinement for any term less than two years, with or without hard labour, and with or without solitary confinement

Setting fire to or casting away a ship with intent to murder.

12. Whosoever sets fire to any ship or vessel, or any part thereof, or any part of the tackle, apparel, or furniture thereof, or any goods or any chattels being therein, or casts away or destroys any ship or vessel, with the intent in any of such cases to commit murder, is guilty of felony, and shall be liable to be imprisoned in the penitentiary for life or for any term not less than two years, or to be imprisoned in any other gaol or place of confinement for any term less than two years, with or without hard labour, and with or without solitary confinement.

Attempting to administer poison, or shooting or attempting to shoot at, or attempting to drown, &c., with intent to murder.

13. Whosoever attempts to administer to, or attempts to cause to be administered to, or to be taken by, any person, any poison or other destructive thing, or shoots at any person, or by drawing a trigger or in any other manner, attempts to discharge any kind of loaded arms at any person, or attempts to drown, suffocate or strangle any person, with intent in any of the cases aforesaid to commit murder, whether any bodily injury be effected or not, is guilty of felony, and shall be liable to be imprisoned in the penitentiary for life, or for any term not less than two years, or to be imprisoned in any other gaol or place of confinement for any term less than two years, with or without hard labour, and with or without solitary confinement.

By any other means attempting to commit murder.

14. Whosoever, by any means other than those specified in any of the preceding sections of this Act, attempts to commit murder, is guilty of felony, and shall be liable to be imprisoned in the penitentiary for life, or for any term not less than two years, or to be imprisoned in any other gaol or place of confinement for any term less than two years, with or without

without hard labour, and with or without solitary confinement.

Letters threatening to murder.

Sending letters threatening to murder.

15. Whosoever maliciously sends, delivers, or utters, or directly or indirectly causes to be received, knowing the contents thereof, any letter or writing threatening to kill or murder any person, is guilty of felony, and shall be liable to be imprisoned in the penitentiary for any term not exceeding ten years and not less than two years, or to be imprisoned in any other gaol or place of confinement for any term less than two years, with or without hard labour, and with or without solitary confinement.

Acts causing or tending to cause danger to life or bodily harm.

Impeding a person endeavoring to save himself from shipwreck.

16. Whosoever unlawfully and maliciously prevents or impedes any person, being on board of or having quitted any ship or vessel in distress, or wrecked, stranded, or cast on shore, in his endeavour to save his life, or unlawfully and maliciously prevents or impedes any person in his endeavour to save the life of any such person as in this section first aforesaid, is guilty of felony, and shall be liable to be imprisoned in the penitentiary for life, or for any term not less than two years, or to be imprisoned in any other gaol or place of confinement for any term less than two years, with or without hard labour, and with or without solitary confinement.

Shooting or attempting to shoot, or wounding, with intent to do grievous bodily harm.

17. Whosoever unlawfully and maliciously, by any means whatsoever, wounds or causes any grievous bodily harm to any person, or shoots at any person, or, by drawing a trigger or in any other manner, attempts to discharge any kind of loaded arms at any person, with intent in any of the cases aforesaid to maim, disfigure or disable any person, or to do some other grievous bodily harm to any person, or with the intent to resist or prevent the lawful apprehension or detainer of any person, is guilty of felony, and shall be liable to be imprisoned in the penitentiary for life or for any term not less than two years, or to be imprisoned in any other gaol or place of confinement for any term less than two years, with or without hard labour, and with or without solitary confinement.

What shall constitute loaded arms.

18. Any gun, pistol, or other arm loaded in the barrel with gunpowder or other explosive substance, and ball, shot, slug or other destructive material, or charged with compressed air and having ball, shot, slug or other destructive material in the barrel, shall be deemed to be loaded arms, within the meaning of this Act, although the attempt to discharge the same may fail for want of proper priming or other cause.

Inflicting bodily injury, with or without weapon.

19. Whosoever unlawfully and maliciously wounds or inflicts any grievous bodily harm upon any other person, either with or without any weapon or instrument, is guilty of a misdemeanor, and shall be liable to be imprisoned in the penitentiary for any term not exceeding three years and not less than two years, or to be imprisoned in any other gaol or place of confinement for any term less than two years, with or without hard labour: and if upon the trial of any indictment for any felony (except in cases of murder or manslaughter), the indictment alleges that the defendant did cut, stab, wound or inflict grievous bodily harm on any person, and the jury be satisfied that the defendant is guilty of the cutting, stabbing or wounding, or inflicting grievous bodily harm, charged in the indictment, but be not satisfied that the defendant is guilty of the felony charged in such indictment, the jury may acquit of the felony, and find the defendant guilty of unlawfully cutting, stabbing or wounding, or inflicting grievous bodily harm; and such defendant shall be liable to be imprisoned in the penitentiary for any term not exceeding three years and not less than two years, or to be imprisoned in any gaol or place of confinement, other than the penitentiary, for any term less than two years.

As to the indictment and verdict in certain cases.

Attempting to choke, &c., in order to commit any indictable offence.

20. Whosoever by any means whatsoever attempts to choke, suffocate or strangle any other person, or by any means calculated to choke, suffocate or strangle, attempts to render any other person insensible, unconscious, or incapable of resistance, with intent in any of such cases thereby to enable himself or any other person to commit, or with intent in any of such cases thereby to assist any other person in committing any indictable offence, is guilty of felony, and shall be liable to be imprisoned in the penitentiary for life, or for any term not less than two years, or to be imprisoned in any other gaol or place of confinement for any term less than two years, with or without hard labour, and if a male with or without whipping.

Using chloroform, &c., to commit any indictable offence.

21. Whosoever unlawfully applies or administers to, or causes to be taken by, or attempts to apply or administer to, or attempts or causes to be administered to or taken by any person, any chloroform, laudanum, or other stupifying or overpowering drug, matter or thing, with intent in any of such cases thereby to enable himself or any other person to commit, or with intent in any of such cases thereby to assist any other person in committing any indictable offence, is guilty of felony, and shall be liable to be imprisoned in the penitentiary for life, or for any other term not less than two years, or to be imprisoned in any other gaol or place of confinement for any term less than two years, with or without hard labour, and if a male with or without whipping.

22

Maliciously administering poison, &c., so as to endanger life or inflict grievous bodily harm.

22. Whosoever unlawfully and maliciously administers to, or causes to be administered to or taken by any other person, any poison or other destructive or noxious thing, so as thereby to endanger the life of such person, or so as thereby to inflict upon such person any grievous bodily harm, is guilty of felony, and shall be liable to be imprisoned in the penitentiary for any term not exceeding ten years and not less than two years, or to be imprisoned in any other gaol or place of confinement for any term less than two years, with or without hard labour.

Maliciously administering poison, &c., with intent to injure, aggravate or annoy any other person.

23. Whosoever unlawfully and maliciously administers to, or causes to be administered to or taken by any other person, any poison or other destructive or noxious thing, with intent to injure, aggrieve, or annoy such person, is guilty of a misdemeanor, and shall be liable to be imprisoned in the penitentiary for any term not exceeding three years, and not less than two years, or to be imprisoned in any other gaol or place of confinement for any term less than two years, with or without hard labour.

Jury may find guilty of misdemeanor, though not of felony.

24. If, upon the trial of any person for any felony in the last but one preceding section mentioned, the jury are not satisfied that such person is guilty thereof, but are satisfied that he is guilty of any misdemeanor in the last preceding section mentioned, then, and in every such case, the jury may acquit the accused of such felony, and find him guilty of such misdemeanor, and thereupon he shall be punished in the same manner as if convicted upon an indictment for such misdemeanor.

Not providing wife, child, apprentice, or servant, &c., with food, &c., whereby life is endangered, &c.

25. Whosoever, being legally liable, either as a husband, parent, guardian, or committee, master or mistress, nurse or otherwise, to provide for any person as wife, child, ward, lunatic or idiot, apprentice or servant, infant or otherwise, necessary food, clothing, or lodging, wilfully and without lawful excuse, refuses or neglects to provide the same, or unlawfully or maliciously does, or causes to be done, any bodily harm to any such apprentice or servant, so that the life of such apprentice or servant is endangered, or the health of such apprentice or servant has been, or is likely to be, permanently injured, is guilty of a misdemeanor, and shall be liable to be imprisoned in the penitentiary for any term not exceeding three years and not less than two years, or to be imprisoned in any other gaol or place of confinement for any term less than two years, with or without hard labour.

Exposing children, whereby life is endangered.

26. Whosoever unlawfully abandons or exposes any child being under the age of two years, whereby the life of such child

child is endangered, or the health of such child has been, or is likely to be permanently injured, is guilty of a misdemeanor, and shall be liable to be imprisoned in the penitentiary for any term not exceeding three years and not less than two years, or to be imprisoned in any other gaol or place of confinement for any term less than two years, with or without hard labour.

Causing bodily injury by gunpowder, &c.

27. Whosoever unlawfully and maliciously, by the explosion of gunpowder or other explosive substance, burns, maims, disfigures, disables, or does any grievous bodily harm to any person, is guilty of felony, and shall be liable to be imprisoned in the penitentiary for life, or for any term not less than two years, or to be imprisoned in any other gaol or place of confinement for any term less than two years, with or without hard labour and with or without solitary confinement.

Causing gunpowder to explode, or sending to any person an explosive substance, or throwing corrosive fluid on a person with intent to do grievous bodily harm.

28. Whosoever unlawfully and maliciously causes any gunpowder or other explosive substance to explode, or sends or delivers to, or causes to be taken or received by any person, any explosive substance, or any other dangerous or noxious thing, or puts or lays at any place, or casts or throws at or upon, or otherwise applies to, any person, any corrosive fluid, or any destructive or explosive substance, with intent in any of the cases aforesaid, to burn, maim, disfigure, or disable any person, or to do some grievous bodily harm to any person, whether any bodily harm be effected or not, is guilty of felony, and shall be liable to be imprisoned in the penitentiary for life, or for any term not less than two years, or to be imprisoned in any other gaol or place of confinement, for any term less than two years, with or without hard labour, and with or without solitary confinement.

Placing gunpowder near a building, with intent to do bodily harm to any person.

29. Whosoever unlawfully and maliciously places or throws in, into, upon, against or near any building, ship or vessel, any gunpowder or other explosive substance, with intent to do any bodily injury to any person, whether or not any explosion takes place, and whether or not any bodily injury is effected, is guilty of felony, and shall be liable to be imprisoned in the penitentiary for any term not exceeding fourteen years and not less than two years, or to be imprisoned in any other gaol or place of confinement for any term less than two years, with or without hard labour, and with or without solitary confinement.

Setting spring guns, &c., with intent to

30. Whosoever sets or places, or causes to be set or placed, any spring-gun, man-trap, or other engine calculated to destroy

troy human life or inflict grievous bodily harm, with the intent that the same or whereby the same may destroy or inflict grievous bodily harm, upon any trespasser or other person coming in contact therewith, is guilty of a misdemeanor, and shall be liable to be imprisoned in the penitentiary for any term not exceeding three years and not less than two years, or to be imprisoned in any other gaol or place of confinement for any term less than two years, with or without hard labour;—and whosoever knowingly and wilfully permits any such spring-gun, man-trap, or other engine which may have been set or placed in any place, then being in or afterwards coming into his possession or occupation, by some other person, to continue so set or placed shall be deemed to have set or placed such gun, trap or engine with such intent as aforesaid: Provided, that nothing in this section contained shall extend to make it illegal to set or place any gin or trap such as may have been or may be usually set or placed with the intent of destroying vermin.

inflict grievous bodily harm.

Proviso.

31. Whosoever unlawfully and maliciously puts or throws upon or across any railway any wood, stone, or other matter or thing, or unlawfully and maliciously takes up, removes or displaces any rail, sleeper, or other matter or thing belonging to any railway, or unlawfully and maliciously turns, moves or diverts any point, or other machinery belonging to any railway, or unlawfully and maliciously makes or shows, hides or removes any signal or light upon or near to any railway, or unlawfully or maliciously does or causes to be done any other matter or thing, with intent, in any of the cases aforesaid, to endanger the safety of any person travelling or being upon such railway, is guilty of felony, and shall be liable to be imprisoned in the penitentiary for life, or for any term not less than two years, or to be imprisoned in any other gaol or place of confinement for any term less than two years, with or without hard labour.

Placing wood &c., on a railway, or removing rails, &c., with intent to endanger passengers.

32. Whosoever unlawfully and maliciously throws, or causes to fall or strike at, against, into or upon any engine, tender, carriage or truck used upon any railway, any wood, stone, or other matter or thing, with intent to injure or endanger the safety of any person being in or upon such engine, tender, carriage or truck, or in or upon any other engine, tender, carriage or truck of any train, of which such first-mentioned engine, tender, carriage or truck forms part, is guilty of felony, and shall be liable to be imprisoned in the penitentiary for life, or for any term not less than two years, or to be imprisoned in any other gaol or place of confinement for any term less than two years, with or without hard labour.

Casting stones, &c., upon a railway carriage with intent to endanger the safety of any person therein.

33.

Doing anything to endanger passengers by railway.

33. Whosoever, by any unlawful act, or by any wilful omission or neglect of duty, endangers or causes to be endangered the safety of any person conveyed or being in or upon a railway, or aids or assists therein, is guilty of a misdemeanor, and shall be liable to be imprisoned in any gaol or place of confinement other than a penitentiary, for any term less than two years, with or without hard labour.

Drivers of carriages injuring persons by furious driving.

34. Whosoever, having the charge of any carriage or vehicle, by wanton or furious driving, or racing or other wilful misconduct, or by wilful neglect, does or causes to be done any bodily harm to any person whatsoever, is guilty of a misdemeanor, and shall be liable to be imprisoned in any gaol or place of confinement other than a penitentiary, for any term less than two years, with or without hard labour.

Negligently causing bodily injury.

35. Whosoever, by any unlawful act, or by doing negligently or omitting to do any act, which it is his duty to do, causes grievous bodily injury to any other person, is guilty of a misdemeanor, and shall be liable to be imprisoned in any gaol or place of confinement other than a penitentiary for any term less than two years.

Assaults.

Obstructing or assaulting a clergyman or other minister in the discharge of his duties.

36. Whosoever by threats or force, unlawfully obstructs or prevents, or endeavors to obstruct or prevent any clergyman or other minister in or from celebrating Divine Service, or otherwise officiating in any church, chapel, meeting-house, school-house or other place used for Divine Worship, or in or from the performance of his duty in the lawful burial of the dead, in any church-yard or other burial place, or strikes or offers any violence to, or upon any civil process, or under the pretence of executing any civil process, arrests any clergyman or other minister who is engaged in or, to the knowledge of the offender, is about to engage in any of the rites or duties in this section aforesaid, or who, to the knowledge of the offender, is going to perform the same, or returning from the performance thereof, is guilty of a misdemeanor, and shall be liable to be imprisoned in any gaol or place of confinement, other than a penitentiary for any term less than two years, with or without hard labour.

Disturbing congregations met for religious worship.

37. Whosoever wilfully disturbs, interrupts, or disquiets any assemblage of persons met for religious worship, or for any moral, social or benevolent purpose, by profane discourse, by rude, or indecent behaviour, or by making a noise, either within the place of such meeting or so near it as to disturb the order or solemnity of the meeting, may be arrested on view by any peace officer present at such meeting, or by any other

other person present thereto verbally authorized by any Justice of the Peace present thereat, and detained until he can be brought before a Justice of the Peace ; and such offender shall, upon conviction thereof before a Justice of the Peace, on the oath of one or more credible witnesses, forfeit and pay such sum of money, not exceeding twenty dollars, as the said justice may think fit, and costs, within the period specified for the payment thereof, by the convicting justice at the time of the conviction : and in default of payment, such justice shall issue his warrant to a constable to levy such fine and costs within a time to be specified in the warrant; and if no sufficient distress can be found, such justice shall commit the offender to the common gaol of the district, county, or place wherein the offence was committed, for any term not exceeding one month, unless the fine and costs be sooner paid.

Assaulting a magistrate, &c., engaged in preserving wreck.

38. Whosoever assaults and strikes or wounds any magistrate, officer or other person whatsoever, lawfully authorized in or on account of the exercise of his duty, in or concerning the preservation of any vessel in distress, or of any vessel, goods or effects, wrecked, stranded, or cast on shore, or lying under water, is guilty of a misdemeanor, and shall be liable to be imprisoned in the penitentiary for any term not exceeding seven years, and not less than two years, or to be imprisoned in any other gaol or place of confinement for any term less than two years, with or without hard labour.

Assault with intent to commit felony, or on peace officers, &c.

39. Whosoever assaults any person with intent to commit felony, or assaults, resists, or wilfully obstructs any revenue or peace officer in the due execution of his duty, or any person acting in aid of such officer, or assaults any person with intent to resist or prevent the lawful apprehension or detainer of himself, or of any other person for any offence, is guilty of a misdemeanor, and shall be liable to be imprisoned in any gaol or place of confinement other than a penitentiary for any term less than two years, with or without hard labour.

Assaults with intent to obstruct the sale of grain, &c. ; or its free passage.

40. Whosoever beats or uses any violence or threat of violence to any person with intent to deter or hinder him from buying, selling or otherwise disposing of, any wheat or other grain, flour, meal, malt, or potatoes, or other produce or goods, in any market or other place, or beats or uses any such violence or threat to any person having the charge or care of any wheat or other grain, flour, meal, malt or potatoes, whilst on the way to or from any city, market town or other place, with intent to stop the conveyance of the same, shall, on conviction thereof before two Justices of the

the Peace, be liable to be imprisoned and kept to hard labour in any gaol or place of confinement, other than a penitentiary, for any term not exceeding three months: Provided that no person punished for any such offence by virtue of this section shall be punished for the same offence by virtue of any other law whatsoever.

Proviso.

Assaults on seamen, &c.

41. Whosoever unlawfully and with force hinders or prevents any seaman, stevedore, ship-carpenter or other person usually working at or on board any ship or vessel, from working at or exercising his lawful trade, business or occupation, or beats, or uses any violence to any such person with intent to hinder or prevent him from working at or exercising the same, shall, on conviction thereof before two Justices of the Peace, be liable to be imprisoned and kept to hard labour in any gaol or place of confinement other than a penitentiary for any term not exceeding three months: Provided that no person for any such offence by reason of this section shall be punished for the same offence by any other law whatsoever.

Proviso.

Assaults arising from combination.

42. Whosoever, in pursuance of any unlawful combination or conspiracy to raise the rate of wages, or of any unlawful combination or conspiracy respecting any trade, business or manufacture, or respecting any person concerned or employed therein, unlawfully assaults any person, or in pursuance of any such combination or conspiracy, uses any violence or threat of violence to any person, with a view to hinder him from working or being employed at such trade, business or manufacture, is guilty of a misdemeanor, and shall be liable to be imprisoned in any gaol or place of confinement, other than a penitentiary, for any term less than two years, with or without hard labour.

Persons committing any common assault or battery may be imprisoned or compelled by any magistrate to pay fine and costs not exceeding $20.

43. Where any person unlawfully assaults or beats any other person, any Justice of the Peace, upon complaint by or on behalf of the party aggrieved, praying him to proceed summarily on the complaint, may hear and determine such offence, and the offender shall, upon conviction thereof before him, at the discretion of the justice, either be committed to any gaol or place of confinement, other than the penitentiary, there to be imprisoned, with or without hard labour, for any term not exceeding two months, or else shall forfeit and pay such fine as shall appear to the justice to be meet, not exceeding the sum of twenty dollars, together with costs (if ordered); and if such fine so awarded, together with costs (if ordered), are not paid, either immediately after the conviction or within such period as the said justice shall, at the time of the conviction, appoint, he may commit the offender to any gaol or place of confinement, other than a

a penitentiary, there to be imprisoned for any term not exceeding two months, unless such fine and costs be sooner paid.

If the magistrate dismiss the complaint, he shall make out a certificate to that effect.

44. If the justice, upon the hearing of any case of assault or battery upon the merits, where the complaint was preferred by or on behalf of the party aggrieved, under the last preceding section, deems the offence not to be proved, or finds the assault or battery to have been justified or so trifling as not to merit any punishment, and accordingly dismisses the complaint, he shall forthwith make out a certificate under his hand, stating the fact of such dismissal, and shall deliver such certificate to the party against whom the complaint was preferred.

Certificate or conviction shall be a bar to any other proceedings.

45. If any person against whom any such complaint, as in either of the last two preceding sections mentioned, has been preferred, by or on the behalf of the party aggrieved, has obtained such certificate, or, having been convicted, has paid the whole amount adjudged to be paid or has suffered the imprisonment, or imprisonment with hard labour awarded,—in every such case he shall be released from all further or other proceedings, civil or criminal, for the same cause.

These provisions not to apply to certain cases.

46. Provided that in case the justice finds the assault or battery complained of to have been accompanied by an attempt to commit felony, or is of opinion that the same is, from any other circumstance, a fit subject for prosecution by indictment, he shall abstain from any adjudication thereupon, and shall deal with the case in all respects in the same manner as if he had no authority finally to hear and determine the same: Provided also, that nothing herein contained shall authorize any justice to hear and determine any case of assault or battery, in which any question shall arise as to the title to any lands, tenements, hereditaments, or any interest therein or accruing therefrom, or as to any bankruptcy or insolvency, or any execution under the process of any court of justice.

Further proviso, where title to land, &c., comes in question.

Assault occasioning bodily harm.

47. Whosoever is convicted upon an indictment of any assault occasioning actual bodily harm, shall be liable to be imprisoned in the penitentiary for any term not exceeding three years and not less than two years, or to be imprisoned in any other gaol or place of confinement for any term less than two years, with or without hard labour; and whosoever is convicted upon an indictment for a common assault, shall be liable to be imprisoned in any gaol or place of confinement, other than a penitentiary, for any term not exceeding one year, with or without hard labour.

Common assault.

48.

Court of Q. S. not to try certain offences.

48. Neither the Justices of the Peace acting in and for any district, county, division, city or place, nor any Judge of the Sessions of the Peace, nor the Recorder of any city, shall, at any Session of the Peace, or at any adjournment thereof, try any person for any offence under the twenty-seventh, twenty-eighth, or twenty-ninth sections of this Act.

Rape, abduction and defilement of women.

Rape.

49. Whosoever commits the crime of rape is guilty of felony, and shall suffer death as a felon.

Procuring the defilement of girl under age.

50. Whosoever by false pretences, false representations, or other fraudulent means, procures any woman or girl under the age of twenty-one years, to have illicit carnal connection with any man other than the procurer, is guilty of a misdemeanor, and shall be liable to be imprisoned in any gaol or place of confinement, other than a penitentiary, for any term less than two years, with or without hard labour.

Carnally knowing a girl under ten years of age.

51. Whosoever unlawfully and carnally knows and abuses any girl under the age of ten years, is guilty of felony, and shall suffer death as a felon.

Carnally knowing a girl between the ages of ten and twelve.

52. Whosoever unlawfully and carnally knows and abuses any girl being above the age of ten years and under the age of twelve years is guilty of a misdemeanor, and shall be liable to be imprisoned in the penitentiary for any term not exceeding seven years and not less than two years, or to be imprisoned in any other gaol or place of confinement for any term less than two years, with or without hard labour.

Attempt to commit such offence.

53. Whosoever shall be convicted of any indecent assault upon any female, or of any attempt to have carnal knowledge of any girl under twelve years of age, shall be liable to be imprisoned in any gaol or place of confinement, other than a penitentiary, for any term less than two years, with or without hard labour, and with or without whipping.

Abduction of a woman against her will, from motives of lucre.

54. Where any woman of any age has any interest, whether legal or equitable, present or future, absolute, conditional or contingent in any real or personal estate, or is a presumptive heiress or co-heiress or presumptive next of kin, or one of the presumptive next of kin to any one having such interest, whosoever from motives of lucre, takes away or detains such woman against her will with intent to marry or carnally know her, or to cause her to be married or carnally known by any other person; and whosoever fraudulently allures, takes away or detains such woman, being under the age of twenty-

Fraudulent abduction of a

one

one years, out of the possession and against the will of her father and mother or of any other person having the lawful care or charge of her, with intent to marry or carnally know her or to cause her to be married or carnally known by any other person, is guilty of felony, and shall be liable to be imprisoned in the penitentiary for any term not exceeding fourteen years and not less than two years,—or to be imprisoned in any other gaol or place of confinement for any term less than two years, with or without hard labour; and whosoever is convicted of any offence against this section shall be incapable of taking any estate or interest, legal or equitable, in any real or personal property of such woman, or in which she has any such interest, or which shall come to her as such heiress, co-heiress or next of kin as aforesaid; and if any such marriage as aforesaid shall have taken place, such property shall, upon such conviction be settled in such manner as the Court of Chancery in Ontario, the Supreme Court in Nova Scotia or New Brunswick, or the Superior Court in Quebec, shall appoint, upon any information at the suit of the Attorney General for the Province in which the property is situate.

girl under age against the will of her father, &c.

Offender incapable of taking any of her property.

55. Whosoever by force takes away or detains against her will any woman, of any age, with intent to marry or carnally know her, or to cause her to be married or carnally known by any other person, is guilty of felony, and shall be liable to be imprisoned in the penitentiary for any term not exceeding fourteen years and not less than two years,—or to be imprisoned in any other gaol or place of confinement for any term less than two years, with or without hard labour.

Forcible abduction of any woman, with intent to marry her.

56. Whosoever unlawfully takes or causes to be taken any unmarried girl being under the age of sixteen years, out of the possession and against the will of her father or mother or of any other person having the lawful care or charge of her, is guilty of a misdemeanor, and shall be liable to be imprisoned in any gaol or place of confinement, other than a penitentiary, for any term less than two years, with or without hard labour.

Abduction of a girl under sixteen years of age.

Child Stealing.

57. Whosoever unlawfully, either by force or fraud, leads or takes away or decoys or entices away or detains any child under the age of fourteen years, with intent to deprive any parent, guardian or other person having the lawful care or charge of such child, of the possession of such child, or with intent to steal any article upon or about the person of such child, to whomsoever such article may belong, and whosoever, with any such intent, receives or harbours any such child, knowing the same to have been by force or fraud led, taken,

Child stealing

taken, decoyed, enticed away or detained, as in this section before mentioned, is guilty of felony, and shall be liable to be imprisoned in the penitentiary for any term not exceeding seven years and not less than two years, or to be imprisoned in any other gaol or place of confinement for any term less than two years, with or without hard labour: Provided that no person who has claimed any right to the possession of such child, or is the mother, or has claimed to be the father of an illegitimate child, shall be liable to be prosecuted by virtue hereof on account of the getting possession of such child or taking such child out of the possession of any person having the lawful charge thereof.

Proviso.

Bigamy.

Bigamy.

58. Whosoever, being married, marries any other person during the life of the former husband or wife, whether the second marriage has taken place in Canada, or elsewhere, is guilty of felony, and shall be liable to be imprisoned in the penitentiary for any term not exceeding seven years and not less than two years, or to be imprisoned in any other gaol or place of confinement for any term less than two years, with or without hard labour: and any such offence may be dealt with, enquired of, tried, determined and punished in any district, county or place in Canada, where the offender is apprehended or is in custody, in the same manner in all respects as if the offence had been actually committed in that district, county or place: Provided that nothing in this section contained shall extend to any second marriage contracted elsewhere than in Canada by any other than a subject of Her Majesty resident in Canada and leaving the same with intent to commit the offence, or to any person marrying a second time whose husband or wife has been continually absent from such person for the space of seven years then last past, and was not known by such person to be living within that time, or shall extend to any person who, at the time of such second marriage, was divorced from the bond of the first marriage, or to any person whose former marriage has been declared void by the sentence of any court of competent jurisdiction.

Offence may be dealt with where offender shall be apprehended.

Not to extend to second marriages, &c., herein stated.

Husband or wife absent seven years, &c., or divorced.

Attempts to procure abortion.

Administering drugs or using instruments to procure abortion.

59. Every woman, being with child, who, with the intent to procure her own miscarriage, unlawfully administers to herself any poison or other noxious thing, or unlawfully uses any instrument or other means whatsoever with the like intent, and whosoever, with intent to procure the miscarriage of any woman, whether she be or be not with child, unlawfully administers to her or causes to be taken by her any

any poison or other noxious thing, or unlawfully uses any instrument or other means whatsoever with the like intent, is guilty of felony, and shall be liable to be imprisoned in the penitentiary for life or for any term not less than two years,—or to be imprisoned in any other gaol or place of confinement for any term less than two years, with or without hard labour, and with or without solitary confinement.

Procuring drugs, &c., to cause abortion.

60. Whosoever unlawfully supplies or procures any poison or other noxious thing, or any instrument or thing whatsoever, knowing that the same is intended to be unlawfully used or employed with intent to procure the miscarriage of any woman, whether she be or be not with child, is guilty of a misdemeanor, and shall be liable to be imprisoned in the penitentiary for the term of two years, or to be imprisoned in any other gaol or place of confinement for any term less than two years, with or without hard labour.

Concealing the birth of a Child.

Concealing the birth of a child

61. If any woman is delivered of a child, every person who by any secret disposition of the dead body of the said child, whether such child died before, at or after its birth, endeavours to conceal the birth thereof, is guilty of a misdemeanor, and shall be liable to be imprisoned in any gaol or place of confinement other than the penitentiary, for any term less than two years, with or without hard labour: Provided that if any person tried for the murder of any child, be acquitted thereof, it shall be lawful for the jury, by whose verdict such person is acquitted, to find, in case it so appears in evidence, that the child had recently been born, and that such person did, by some secret disposition of such child or of the dead body of such child, endeavour to conceal the birth thereof, and thereupon the court may pass such sentence as if such person had been convicted upon an indictment for the concealment of birth.

Proviso: if the indictment be for murder.

Act of 21 James I, not to be in force in Canada, &c.

62. No part of the Act passed in the twenty-first year of the reign of King James the First, intituled: "*An Act to prevent the destroying and murdering of bastard children,*" shall extend to, or be in force in Canada, and the trial of any woman charged with the murder of any issue of her body, male or female, which being born alive, would by law be bastard, shall proceed and be governed by such and like rules of evidence and presumption, as are by law used and allowed to take place in respect to other trials for murder, and as if the said Act passed in the reign of King James the First had never been made.

Unnatural

Unnatural Offences.

Sodomy and bestiality.

63. Whosoever is convicted of the abominable crime of buggery committed either with mankind or with any animal, shall be liable to be imprisoned in the penitentiary for life, or for any term not less than two years.

Attempt to commit an infamous crime.

64. Whosoever attempts to commit the said abominable crime, or is guilty of any assault with intent to commit the same, or of any indecent assault upon any male person, is guilty of a misdemeanor, and shall be liable to be imprisoned in the penitentiary for any term not exceeding ten years, and not less than two years, or to be imprisoned in any other gaol or place of confinement for any term less than two years, with or without hard labour.

Proof in certain cases

Carnal knowledge defined.

65 Whenever, upon the trial of any offence punishable under this Act, it is necessary to prove carnal knowledge, it shall not be necessary to prove the actual emission of seed in order to constitute a carnal knowledge, but the carnal knowledge shall be deemed complete on proof of any degree of penetration only.

Making Gunpowder to commit offences and searching for the same.

Making or having gunpowder, &c., with intent to commit any felony against this Act.

66. Whosoever knowingly has in his possession, or makes or manufactures any gunpowder, or explosive substance or any dangerous or noxious thing, or any machine, engine, instrument or thing, with intent by means thereof to commit, or for the purpose of enabling any other person to commit any of the felonies in this Act, or in any other Act mentioned, is guilty of a misdemeanor, and shall be liable to be imprisoned in any gaol or place of confinement, other than a penitentiary, for any term less than two years, with or without hard labour, and with or without solitary confinement.

Justices may issue warrants for searching houses, &c., in which explosive substances are suspected to be made for the purpose of committing felonies against this Act.

67. Any Justice of the Peace for any district, county or place in which any such gunpowder, or other explosive, dangerous or noxious substance or thing, or any such machine, engine, instrument or thing is suspected to be made, kept or carried for the purpose of being used in committing any of the felonies in this Act, or in any other Act mentioned, upon reasonable cause assigned upon oath by any person, may issue a warrant under his hand and seal for searching in the day time, any house, mill, magazine, storehouse, warehouse, shop, cellar, yard, wharf or other place or any carriage, waggon, cart, ship, boat or vessel, in which the same is suspected

pected to be made, kept or carried for such purpose as herein before mentioned; and every person acting in the execution of any such warrant may seize any gun-powder or explosive substance or any dangerous or noxious thing, or any machine, engine or instrument or thing which he has good cause to suspect is intended to be used in committing or enabling any other person to commit any offence against this Act, and with all convenient speed after the seizure shall remove the same to such proper place as he thinks fit, and detain the same until ordered by a judge of one of Her Majesty's superior courts of criminal jurisdiction, to restore it to the person who may claim the same.

Disposal of such substances.

68. Any gunpowder, explosive substance or dangerous or noxious thing, or any machine, engine, instrument or thing intended to be used in committing or enabling any other person to commit any offence against this Act, and seized and taken possession of under the provisions hereof, shall, in the event of the person in whose possession the same is found, or of the owner thereof being convicted for an offence under this Act, be forfeited; and the same shall be sold under the direction of the court before which any such person may be convicted, and the proceeds thereof shall be paid into the hands of the Receiver General, to and for the use of the Dominion.

Kidnapping.

Kidnapping.

69. Whosoever, without lawful authority, forcibly seizes and confines or imprisons any other person within Canada, or kidnaps any other person with intent—

1. To cause such other person to be secretly confined or imprisoned in Canada against his will; or—

2. To cause such other person to be unlawfully sent or transported out of Canada against his will; or—

3. To cause such other person to be sold or captured as a slave, or in any way held to service against his will,—

Punishment.

Is guilty of felony, and shall be liable to be imprisoned in the penitentiary, for any term not exceeding seven years and not less than two years, or to be imprisoned in any other gaol or place of confinement for any term less than two years.

Non-resistance not to be defence.

70. Upon the trial of any offence under the next preceding section, the non-resistance of the person so kidnapped or unlawfully confined, thereto, shall not be a defence, unless it appears to the satisfaction of the court and jury that it

was not caused by threats, duress, or force or exhibition of force.

Where offences are triable.

71. Every offence against the next preceding section but one may be tried either in the district, county or place in which the same was committed, or in any district, county or place into or through which any person so kidnapped or confined, was carried or taken while under such confinement; but no person who has been once duly tried for any such offence, shall be liable to be again indicted or tried for the same offence.

Carrying Bowie-knives, Daggers &c., about the person.

Carrying bowie-knives or other weapons.

72. Whosoever carries about his person any bowie-knife, dagger or dirk, or any weapons called or known as iron knuckles, skull-crackers or slung shot, or other offensive weapons of a like character, or secretly carries about his person any instrument loaded at the end, or sells or exposes for sale publicly or privately, any such weapon, shall be liable, on conviction thereof, before any Justice of the Peace, to a fine of not less than ten nor more than forty dollars, and in default of payment thereof, to be imprisoned in any gaol or place of confinement for a term not exceeding thirty days.

Carrying sheath-knives in seaport towns.

73. Whosoever is found in any of the seaport towns or cities in Canada, carrying about his person any sheath-knife, shall be liable on conviction thereof before any Justice of the Peace, to the like pains and penalties as in the next preceding section: Provided, however, that nothing herein contained shall apply to seamen or riggers when occupied or engaged in their lawful trade or calling.

How offences may be tried.

74. Whosoever is charged with having committed any offence against the provisions of the last two preceding sections of this Act, may be tried and dealt with in pursuance of the Act of the present Session "*respecting the prompt and summary Administration of Criminal Justice in certain cases.*"

Weapon to be destroyed.

75. It shall be the duty of the court or justice before whom any person is convicted under the three last preceding sections of this Act, to impound the weapon for carrying which such person is convicted, and to cause the same to be destroyed.

Time of prosecution limited.

76. All prosecutions under the four next preceding sections of this Act shall be commenced within one month from the commission of the offence charged.

Other

Other Matters.

Fine and sureties for keeping the peace; in what cases.

77. When any person is convicted of any indictable misdemeanor punishable under this Act, the court may, if it think fit, in addition to or in lieu of any punishment by this Act authorized, fine the offender, and require him to enter into his own recognizances and to find sureties, both or either, for keeping the peace and being of good behaviour; and such fine may be proportioned to the means of the offender, and in case of any felony punishable under this Act, otherwise than with death, the court may, if it think fit, require the offender to enter into his own recognizances and to find sureties, both or either, for keeping the peace, in addition to any punishment by this Act authorized: Provided that no person shall be imprisoned for not finding sureties under this section, for any period exceeding one year. Proviso

On a conviction for an assault the court may order payment of the prosecutor's costs by the defendant.

78. When any person is convicted on any indictment of any assault whether with or without battery and wounding, or either of them, such person may, if the court thinks fit, in addition to any sentence which the court may deem proper for the offence, be adjudged to pay to the prosecutor his actual and necessary costs and expenses of the prosecution, and such moderate allowance for loss of time as the court shall, by affidavit or other inquiry and examination, ascertain to be reasonable; and unless the sums so awarded are sooner paid, the offender shall be imprisoned in any gaol or place of confinement other than a penitentiary, for any term the court shall award, not exceeding three months, in addition to the term of imprisonment (if any) to which the offender may be sentenced for the offence.

Such costs may be levied by distress,

79. The court may, by warrant in writing, order such sum as shall be so awarded to be levied by distress and sale of the goods and chattels of the offender, and paid to the prosecutor, and that the surplus, if any, arising from such sale shall be paid to the owner; and in case such sum shall be so levied, the imprisonment awarded until payment of such sum shall thereupon cease.

Summary p ceedings.

80. Every offence hereby made punishable on summary conviction may be prosecuted in the manner directed by the Act of the present Session intituled: "*An Act respecting the duties of Justices of the Peace, out of sessions, in relation to summary convictions and orders,*" or in such other manner as may be directed in any Act that may be passed for like purposes, and all provisions contained in such Acts shall be applicable to such prosecutions in the same manner as if they were incorporated in this Act.

81.

Commencement of Act.

81. This Act shall commence and take effect on the first day of January, one thousand eight hundred and seventy.

CHAP. 21.

An Act respecting Larceny and other similar Offences.

[*Assented to 22nd June*, 1869.]

Preamble.

WHEREAS it is expedient to assimilate, amend and consolidate the Statute Law of the several Provinces of Quebec, Ontario, Nova Scotia and New Brunswick, relating to larceny and other similar offences, and to extend the same as so consolidated, to all Canada: Therefore, Her Majesty, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows:—

1. In the interpretation of this Act:

Interpretation of terms. "Document of title to goods."

The term "Document of title to goods," shall include any bill of lading, India warrant, dock warrant, warehouse keeper's certificate, warrant or order for the delivery or transfer of any goods or valuable thing bought and sold, note or any other document used in the ordinary course of business as proof of the possession or control of goods, authorizing or purporting to authorize, either by indorsement or by delivery, the possessor of such document to transfer or receive any goods thereby represented or therein mentioned or referred to:

"Document of title to lands."

The term "Document of title to lands," shall include any deed, map, paper or parchment, written or printed, or partly written and partly printed, being or containing evidence of the title, or any part of the title to any real estate, or to any interest in or out of any real estate, or any Notarial or Registrar's copy thereof, or any duplicate instrument, memorial, certificate or document authorized or required by any law in any part of Canada, respecting registration of titles, and relating to such title:

"Trustee."

The term "Trustee" shall mean a trustee on some express trust created by some deed, will or instrument in writing, or a trustee of personal estate created by parol, and shall include the heir or personal representative of any such trustee, and any other person upon or to whom the duty of such trust may have devolved or come, and also an executor and administrator, and an official manager, assignee, liquidator or other like officer acting under any present or future Act relating

ting to joint stock companies, bankruptcy or insolvency, and any person who is by the law of the Province of Quebec, an "*Administrateur;*" and the word "Trust" shall include whatever is by that law an "*Administration*:"

The term "Valuable security" shall include any order, exchequer acquittance or other security whatsoever entitling or evidencing the title of any person or body corporate to any share or interest in any public stock or fund, whether of Canada or of any Province therein, or of the United Kingdom, or of Great Britain or Ireland, or of any British Colony or possession, or of any foreign state, or in any fund of any body corporate, company or society, whether within Canada, or the United Kingdom or any British colony or possession, or in any foreign state or country, or to any deposit in any Savings Bank or other Bank, and shall also include any debenture, deed, bond, bill, note, warrant, order or other security whatsoever for money or for payment of money, whether of Canada, or of any Province therein, or of the United Kingdom, or of any British colony or possession, or of any foreign state, and any document of title to lands or goods as hereinbefore defined, and any stamp or writing which secures or evidences title to or interest in any chattel personal, or any release, receipt, discharge, or other instrument evidencing payment of money, or the delivery of any chattel personal; and every such valuable security shall, where value is material, be deemed to be of value equal to that of such unsatisfied money, chattel personal, share, interest or deposit, for the securing or payment of which, or delivery, or transfer or sale of which, or for the entitling or evidencing title to which, such valuable security is applicable, or to that of such money or chattel personal, the payment or delivery of which is evidenced by such valuable security: "Valuable security."

The term "Property" shall include every description of real and personal property, money, debts and legacies, and all deeds and instruments relating to or evidencing the title or right to any property, or giving a right to recover or receive any money or goods, and shall also include not only such property as may have been originally in the possession or under the control of any party, but also any property into or for which the same may have been converted or exchanged, and any thing acquired by such conversion or exchange, whether immediately or otherwise: "Property."

The term "Cattle" shall include any horse, mule, ass, swine or goat, as well as any neat cattle or animal of the bovine species, and whatever be the age or sex of the animal, and whether castrated or not, and by whatever technical or trivial "Cattle."

trivial name it may be known and shall apply to one animal as well as to many:

"Banker." The term "Banker" shall include any director of any incorporated bank or banking company:

"Writing." The term "Writing" shall include any mode in which and any material on which words or figures at length or abridged are written, printed or otherwise expressed, or any map or plan is inscribed:

"Testamentary instrument." The term "Testamentary instrument" shall include any will, codicil, or any other testamentary writing or appointment as well during the life of the testator whose testamentary disposition it purports to be, as after his death, where the same relates to real or personal estate, or both:

"Municipality." The term "Municipality" shall include the Corporation of any city, town, village, township, parish or other territorial or local division of any Province of Canada, the inhabitants whereof are incorporated or have the right of holding property for any purpose:

Having in custody or possession under this Act. Whenever the having anything in the possession of any person, is in this Act expressed to be an offence, then if any person has any such thing in his personal custody or possession, or knowingly or wilfully has any such thing in any dwelling-house or other building, lodging, apartment, field, or other place open or enclosed, whether belonging to, or occupied by himself or not, and whether such matter or thing be so had for his own use or benefit, or for that of another, such person shall be deemed to have such matter or thing in his custody or possession within the meaning of this Act, and where there are two or more persons, any one or more of whom, with the knowledge and consent of the rest, has any such thing in his or their custody or possession, it shall be deemed and taken to be in the custody and poseession of all of them:

"Night." For the purposes of this Act, the "Night" shall be deemed to commence at nine of the clock in the evening of each day, and to conclude at six of the clock in the morning of the next succeeding day, and the day shall include the remainder of the twenty-four hours.

All larcenies to be of the same nature. **2.** Every larceny, whatever be the value of the property stolen, shall be deemed to be of the same nature, and shall be subject to the same incidents in all respects as grand larceny was before the distinction between grand and petit larceny was abolished.

3.

Bailee fraudulently converting property guilty of larceny.

3. Whosoever being a bailee of any chattel, money or valuable security, fraudulently takes or converts the same to his own use or to the use of any person other than the owner thereof, although he do not break bulk or otherwise determine the bailment, is guilty of larceny, and may be convicted thereof upon an indictment for larceny; but this section shall not extend to any offence punishable on summary conviction.

Punishment for simple larceny.

4. Whosoever is convicted of simple larceny or of any felony hereby made punishable like simple larceny, shall (except in the cases hereinafter otherwise provided for) be liable to be imprisoned in the penitentiary for any term not exceeding three years, and not less than two years, or to be imprisoned in any other gaol or place of confinement for any term less than two years, with or without hard labour, and with or without solitary confinement.

Three larcenies may be charged in one indictment.

5. It shall be lawful to insert several counts in the same indictment against the same person for any number of distinct acts of stealing, not exceeding three, which have been committed by him against the same person within the space of six months from the first to the last of such acts, and to proceed thereon for all or any of them.

Where one taking is charged and several takings at different times are proved.

6. If upon the trial of any indictment for larceny it appears that the property alleged in such indictment to have been stolen at one time was taken at different times, the prosecutor or counsel for the prosecution shall not by reason thereof be required to elect upon which taking he will proceed, unless it appears that there were more than three takings, or that more than the space of six months elapse between the first and the last of such takings; and in either of such last mentioned cases the prosecutor or counsel for the prosecution shall be required to elect to proceed for such number of takings not exceeding three, as appear to have taken place within the period of six months from the first to the last of such takings.

Larceny after a conviction for felony.

7. Whosoever commits the offence of simple larceny after a previous conviction for felony, whether such conviction has taken place upon an indictment or under the provisions of the "*Act respecting the prompt and summary administration of Criminal Justice in certain cases*," or of any other Act for like purposes, shall be liable to be imprisoned in the penitentiary for any term not exceeding ten years, and not less than two years, or to be imprisoned in any other gaol or place of confinement for any term less than two years, with or without hard labour, and with or without solitary confinement.

8.

Larceny after conviction of an indictable misdemeanor under this Act.

8. Whosoever commits the offence of simple larceny or any offence hereby made punishable like simple larceny, after having been previously convicted of any indictable misdemeanor punishable under this Act, shall be liable to be imprisoned in the penitentiary for any term not exceeding seven years and not less than two years, or to be imprisoned in any other gaol or place of confinement for any term less than two years, with or without hard labour, and with or without solitary confinement.

Larceny after two summary convictions.

9. Whosoever commits the offence of simple larceny, or any offence hereby made punishable like simple larceny, after having been twice summarily convicted of any of the offences punishable upon summary conviction under the provisions contained in this Act, or in any former Act or law relating to the same subjects, or in the "*Act respecting the prompt and summary administration of Criminal Justice in certain cases*," or other Act for like purposes, or in the "*Act respecting the trial and punishment of Juvenile Offenders*," or in the "*Act respecting malicious injuries to property*," (whether each of the convictions has been in respect of an offence of the same description or not, and whether such convictions or either of them has been before or after the passing of this Act,) is guilty of felony, and shall be liable to be imprisoned in the penitentiary for any term not exceeding seven years, and not less than two years, or to be imprisoned in any other gaol or place of confinement, for any term less than two years, with or without hard labour, and with or without solitary confinement.

As to larceny of cattle or other animals.

Stealing cattle.

10. Whosoever steals any cattle is guilty of felony, and shall be liable to be imprisoned in the penitentiary for any term not exceeding fourteen years and not less than two years, or to be imprisoned in any other gaol or place of confinement for any term less than two years, with or without hard labour, and with or without solitary confinement.

Killing animals with intent to steal the carcase, &c.

11. Whosoever wilfully kills any animal, with intent to steal the carcase, skin, or any part of the animal so killed, is guilty of felony, and shall be liable to the same punishment as if he had been convicted of feloniously stealing the same, provided the offence of stealing the animal so killed would have amounted to felony.

Stealing dogs, beasts or birds ordinarily kept in confinement and not subject of larceny at common law.

12. Whosoever steals any dog, or any bird, beast, or other animal ordinarily kept in a state of confinement or for any domestic purpose, or for any lawful purpose of profit or advantage, not being the subject of larceny at common law, or wilfully kills any such dog, bird, beast or animal, with intent

intent to steal the same or any part thereof, shall, on conviction thereof before a Justice of the Peace, either be committed to the common gaol or house of correction, there to be imprisoned only or to be imprisoned and kept at hard labour for any term not exceeding one month, or else shall forfeit and pay, over and above the value of the dog, bird, beast or other animal, such sum of money, not exceeding twenty dollars, as to the justice may seem meet; and whosoever having been convicted of any such offence, either against this or any former Act or law, afterwards commits any offence in this section before mentioned, and is convicted thereof in like manner, shall be committed to the common gaol or house of correction, there to be kept to hard labour for such term not exceeding three months, as the convicting justice may think fit. Second offence.

13. Whosoever unlawfully and wilfully kills, wounds, or takes any house-dove or pigeon under such circumstances as do not amount to larceny at common law, shall, on conviction before a Justice of the Peace, forfeit and pay, over and above the value of the bird any sum not exceeding ten dollars. Killing or taking pigeons.

14. Whosoever steals any oysters or oyster brood from any oyster bed, laying or fishery, being the property of any other person, and sufficiently marked out or known as such, is guilty of felony, and being convicted thereof, shall be liable to be punished as in the case of simple larceny; and whosoever unlawfully and wilfully uses any dredge or net, instrument or engine whatsoever, within the limits of any oyster bed, laying or fishery, being the property of any other person, and sufficiently marked out or known as such for the purpose of taking oysters or oyster brood, although none shall be actually taken, or unlawfully and wilfully, with any net, instrument or engine, drags upon the ground of any such fishery, is guilty of a misdemeanor, and shall be liable to be imprisoned for any term not exceeding three months, with or without hard labour, and with or without solitary confinement; and it shall be sufficient in any indictment to describe either by name or otherwise the bed, laying or fishery in which any of the said offences has been committed, without stating the same to be in any particular county, district, or other local division: Provided, that nothing in this section contained shall prevent any person from catching or fishing for any floating fish within the limits of any oyster fishery with any net, instrument or engine adapted for taking floating fish only. Stealing or dredging for oysters in oyster fisheries. Form of indictment. Proviso: as to floating fish.

As to larceny of written instruments.

Bonds, bills, notes, &c.

15. Whosoever steals, or for any fraudulent purpose destroys, cancels, obliterates, or cancels the whole or any part of any valuable security, other than a document of title to lands, is guilty of felony, of the same nature, and in the same degree, and punishable in the same manner as if he had stolen any chattel of like value with the share, interest or deposit to which the security so stolen relates, or with the money due on the security so stolen, or secured thereby and remaining unsatisfied, or with the value of the goods or other valuable thing represented, mentioned or referred to in or by the security.

Deeds, &c., relating to real property.

16. Whosoever steals, or for any fraudulent purpose destroys, cancels, obliterates or conceals the whole or any part of any document of title to lands, is guilty of felony, and shall be liable to be imprisoned in the penitentiary for any term not exceeding three years and not less than two years, or to be imprisoned in any other gaol or place of confinement for any term less than two years, with or without hard labour, and with or without solitary confinement; and in any indictment for any such offence, relating to any document of title to lands, it shall be sufficient to allege such document to be or contain evidence of the title, or of part of the title, or of some matter affecting the title, of the person or of some one of the persons having an interest, whether vested or contingent, legal or equitable, in the real estate to which the same relates, and to mention such real estate or some part thereof.

Form of indictment.

Wills or codicils.

17. Whosoever, either during the life of the testator or after his death, steals, or, for any fraudulent purpose, destroys, cancels, obliterates or conceals the whole or any part of any will, codicil or other testamentary instrument, whether the same relates to real or personal estate, or to both, is guilty of felony, and shall be liable to be imprisoned in the penitentiary for life, or for any term not less than two years, or to be imprisoned in any other gaol or place of confinement for any term less than two years, with or without hard labour, and with or without solitary confinement; and it shall not, in any indictment for such offence, be necessary to allege that such will, codicil, or other instrument, is the property of any person or of any value: Provided that nothing in this or the last preceding section mentioned, nor any proceeding, conviction or judgment to be had or taken thereupon, shall prevent, lessen or impeach any remedy at law or in equity, which any party aggrieved by any such offence might or would have had if this Act had not been passed; but no conviction of any such offender shall be received

Other remedies not to be affected.

received in evidence in any action at law or suit in equity against him; and no person shall be liable to be convicted of any of the felonies in this and the last preceding section mentioned by any evidence whatever, in respect of any act done by him, if he has at any time, previously to his being charged with such offence, first disclosed such act, on oath, in consequence of any compulsory process of any court of law or equity, in any action, suit or proceeding, *bona fide* instituted by any party aggrieved, or if he has first disclosed the same in any compulsory examination or deposition before any court upon the hearing of any mattter in bankruptcy or insolvency. Proviso: as to the effect of conviction in any civil action; and as to disclosures under compulsory process.

18. Whosoever steals, or, for any fraudulent purpose takes from its place of deposit, for the time being, or from any person having the custody thereof, or unlawfully and maliciously cancels, obliterates, injures or destroys the whole or any part of any record, writ, return, panel, process, interrogatory, deposition, affidavit, rule, order, or warrant of attorney, or of any original document whatsoever, of or belonging to any Court of Record, or other Court of Justice, or relating to any matter, civil or criminal, begun, depending or terminated in any such court, or of any bill, petition, answer, interrogatory, deposition, affidavit, order or decree, or of any original document whatsoever of or belonging to any Court of Equity, or relating to any cause or matter begun, depending or terminated in any such court, or of any original document in anywise relating to the business of any office or employment under Her Majesty, and being or remaining in any office appertaining to any court of justice, or in any government or public office, is guilty of felony, and shall be liable to be imprisoned in the penitentiary for any term not exceeding three years, and not less than two years, or to be imprisoned in any other gaol or place of confinement for any term less than two years, with or without hard labour, and with or without solitary confinement; and it shall not in any indictment for such offence be necessary to allege that the article in respect of which the offence is committed is the property of any person. Stealing records or other legal documents. Form of indictment.

19. Whosoever steals any railway or steamboat ticket, or any order or receipt for a passage on any railway or in any steamer or other vessel, is guilty of felony, and shall be liable to be imprisoned in any gaol or place of confinement, other than a penitentiary, with or without hard labour, for any term less than two years. Stealing railway tickets, &c.

As to larceny of things attached to or growing on land.

20. Whosoever steals, or rips, cuts, severs or breaks with intent to steal, any glass or woodwork belonging to any building whatsoever, Metal, glass, wood, &c.,

fixed to house or land.

whatsoever, or any lead, iron, copper, brass or other metal, or any utensil or fixture, whether made of metal or other material, or of both, respectively fixed in or to any building whatsoever, or any thing made of metal fixed in any land being private property or for a fence to any dwelling-house, garden or area, or in any square or street, or in any place dedicated to public use or ornament, or in any burial ground, is guilty of felony, and shall be liable to be punished as in the case of simple larceny; and in case of any such thing fixed in any such square, street or place as aforesaid, it shall not be necessary to allege the same to be the property of any person.

Trees in pleasure grounds of the value of $5, or elsewhere of the value of $25.

21. Whosoever steals, or cuts, breaks, roots up, or otherwise destroys or damages with intent to steal, the whole or any part of any tree, sapling or shrub or any underwood respectively growing in any park, pleasure ground, garden, orchard or avenue, or in any ground adjoining or belonging to any dwelling-house (in case the value of the article or articles stolen, or the amount of the injury done, exceeds the sum of five dollars), is guilty of felony, and shall be liable to be punished as in the case of simple larceny; and whosoever steals, or cuts, breaks, roots up or otherwise destroys or damages with intent to steal, the whole or any part of any tree, sapling or shrub, or any underwood, respectively growing elsewhere than in any of the situations in this section before mentioned (in case the value of the article or articles stolen, or the amount of the injury done, exceeds the sum of twenty-five dollars), is guilty of felony, and shall be liable to be punished as in the case of simple larceny.

Stealing trees worth 25c. punishable on summary conviction for first and second offences.

22 Whosoever steals, or cuts, breaks, roots up or otherwise destroys or damages with intent to steal, the whole or any part of any tree, sapling or shrub, or any underwood, wheresoever the same may be respectively growing, the stealing of such article or articles or the injury done, being to the amount of twenty-five cents at the least, shall, on conviction thereof before a Justice of the Peace, forfeit and pay, over and above the value of the article or articles stolen, or the amount of the injury done, such sum of money, not exceeding twenty-five dollars as to the justice may seem meet: And

Second offence.

whosoever having been convicted of any such offence, either against this or any former Act or law, afterwards commits any of the said offences in this section before mentioned, and is convicted thereof in like manner, shall for such second offence be committed to the common gaol or house of correction, there to be kept to hard labour for such term, not exceeding three months, as the convicting justice may think

Third offence.

fit; and whosoever, having been twice convicted of any such offence (whether both or either of such convictions shall have

have taken place before or after the passing of this Act) afterwards commits any of the offences in this section before mentioned, is guilty of felony, and shall be liable to be punished in the same manner as in the case of simple larceny.

Purchasing or receiving stolen trees.

23. If any person receives or purchases any tree or sapling, trees or saplings, or any timber made therefrom, exceeding in value the sum of ten dollars, knowing the same to have been stolen, or unlawfully cut or carried away, such receiver or purchaser shall be guilty of a misdemeanor, and may be indicted and convicted thereof, whether the principal offender has or has not been convicted, or be or be not amenable to justice, and shall be liable to the same punishment as the principal offender: Provided that nothing in this or in either of the two next preceding sections contained, nor any proceeding, conviction or judgement to be had or taken thereupon, shall prevent, lessen or impeach any remedy at law or in equity which any party aggrieved by any of the said offences would have had, if this Act had not been passed; nevertheless the conviction of the offender shall not be received in evidence in any action at law or suit in equity against him; and no person shall be convicted of either of the offences aforesaid, by any evidence disclosed by him on oath, in consequence of the compulsory process of a Court of Law or Equity in any action, suit or proceeding, instituted by any party aggrieved.

Proviso: other remedies saved.

Parties confessing the offence in action, &c.

Stealing, &c., any live or dead fences, wooden fence, stile or gate.

24. Whosoever steals, or cuts, breaks, or throws down with intent to steal, any part of any live or dead fence, or any wooden post, pale, wire or rail set up or used as a fence, or any stile or gate, or any part thereof respectively, shall, on conviction thereof before a Justice of the Peace, forfeit and pay, over and above the value of the article or articles so stolen, or the amount of the injury done, such sum of money not exceeding twenty dollars, as to the justice may seem meet: And whosoever having been convicted of any such offence, either against this or any former Act or law, afterwards commits any of the said offences in this section beforementioned, and is convicted thereof in like manner, shall be committed to the common gaol or house of correction, there to be kept to hard labour for such term not exceeding three months as the convicting justice may think fit.

Second offence.

Suspected persons in possession of any wood, &c. not satisfactorily accounting for it.

25. If the whole or any part of any tree, sapling or shrub, or any underwood, or any part of any live or dead fence, or any post, pale, wire, rail, stile or gate, or any part thereof, being of the value of twenty-five cents at the least, is found in the possession of any person, or on the premises of any person with his knowledge, and such person, being taken or summoned before a Justice of the Peace, does not satisfy the justice

justice that he came lawfully by the same, he shall, on conviction by the justice, forfeit and pay, over and above the value of the article or articles so found, any sum not exceeding ten dollars.

Stealing, &c., any fruit, &c., punishable on summary conviction for first offence.

26. Whosoever steals, or destroys or damages with intent to steal, any plant, root, fruit, or vegetable production growing in any garden, orchard, pleasure ground, nursery ground, hot-house, green-house or conservatory, shall, on conviction thereof before a Justice of the Peace, at the discretion of the justice, either be committed to the common gaol or house of correction, there to be imprisoned only, or to be imprisoned and kept to hard labour, for any term not exceeding one month, or else shall forfeit and pay over and above the value of the article or articles so stolen or the amount of the injury done, such sum of money not exceeding twenty dollars, as to the justice may seem meet: And whosoever having been convicted of any such offence, either against this or any former Act or law, afterwards commits any of the offences in this section before mentioned, is guilty of felony, and shall be liable to be punished in the same manner as in the case of simple larceny.

Second offence.

Stealing, &c., vegetable productions not growing in gardens, &c.

27. Whosoever steals, or destroys or damages with intent to steal, any cultivated root or plant used for the food of man or beast, or for medicine, or for distilling, or for dyeing, or for or in the course of any manufacture, and growing in any land, open or enclosed, not being a garden, orchard, pleasure ground, or nursery ground, shall, on conviction thereof before a Justice of the Peace, either be committed to the common gaol or house of correction, there to be imprisoned only, or to be imprisoned and kept to hard labour, for any term not exceeding one month, or else shall forfeit and pay, over and above the value of the article or articles so stolen, or the amount of the injury done, such sum of money, not exceeding five dollars, as to the justice seems meet, and in default of payment thereof, together with the costs, (if ordered) shall be committed as aforesaid for any term not exceeding one month, unless payment be sooner made: And whosoever having been convicted of any such offence, either against this or any former Act or law, afterwards commits any of the said offences in this section before mentioned, and is convicted thereof in like manner, shall be committed to the common gaol or house of correction, there to be kept to hard labour, for such term not exceeding three months as the convicting justice thinks fit.

Second offence.

As

As to larceny from mines or of ores or minerals.

Ores of metal, coal, &c.

28. Whosoever steals, or severs with intent to steal, the ore of any metal, or any quartz, lapis calaminaris, manganese, or mundic, or any piece of gold, silver or other metal, or any wad, black cawlk, or black lead, or any coal, or cannel coal, or any marble, stone or other mineral from any mine, bed or vein thereof respectively, is guilty of felony, and shall be liable to be imprisoned in any gaol or place of confinement other than a penitentiary, for any term less than two years, with or without hard labour, and with or without solitary confinement: Provided that no person shall be held guilty of any offence for having, for the purpose of exploration or scientific investigation, taken any specimen or specimens of any ore or mineral from any piece of ground unenclosed and not occupied or worked as a mine, quarry, or digging. Proviso.

Miners removing ore, &c., with intent to defraud.

29. Whosoever being employed in or about any mine, quarry or digging, takes, removes, or conceals any ore of any metal, or any quartz, lapis calaminaris, manganese, mundic, or any piece of gold, silver or other metal, or any mineral found or being in such mine, quarry or digging, with intent to defraud any proprietor, of, or any adventurer in the same, or any workman or miner employed therein, is guilty of felony, and shall be liable to be imprisoned in any gaol or place of confinement other than a penitentiary, for any term less than two years, with or without hard labour, and with or without solitary confinement.

Penalty for concealing royalty, with intent to defraud.

30. Whosoever being the holder of any lease or licence issued under the provisions of any Act relating to gold or silver mining, or by any private parties owning land supposed to contain any gold or silver, by any fraudulent device or contrivance, defrauds or attempts to defraud Her Majesty or any private party of any gold, silver or money payable or reserved by such lease, or with such intent as aforesaid, conceals or makes a false statement as to the amount of gold or silver procured by him, is guilty of a misdemeanor, and shall be liable to be imprisoned in any gaol or place of confinement other than a penitentiary, for any term less than two years, with or without hard labour and with or without solitary confinement.

Selling or purchasing without permission quartz, &c., containing gold or silver.

31. Whosoever (not being the owner or agent of mining claims then being worked, and not being thereunto authorized, in writing, by the Commissioner or Deputy Commissioner of Mines, in any district, or by the officer for the division in any gold mining division, or by any Inspector or other proper officer in that behalf, named in any Act relating to mines in force in any Province of Canada) sells or purchases (except

to

to or from such owner or authorized person) any quartz containing gold, or any smelted gold or silver, at or within three miles of any gold district or mining district, or gold mining division, is guilty of a misdemeanor, and shall be liable to be imprisoned in any gaol or place of confinement, other than the penitentiary, for any term less than two years, with or without hard labour, and with or without solitary confinement.

Purchasing gold in quartz, or smelted, &c., without giving a proper receipt for it.

32. Whosoever purchases any gold in quartz, or any unsmelted or smelted gold or silver, or otherwise unmanufactured gold or silver of the value of one dollar or upwards (except from such owner or authorized person as in the last preceding section mentioned) and does not at the same time execute in triplicate an instrument, in writing, stating the place and time of purchase, and the quantity, quality, and value of gold or silver so purchased, and the name or names of the person or persons from whom the same was purchased, and file the same in the office of the nearest Commissioner or Deputy Commissioner of Mines of the District, or officer for the division in the gold mining division, or of some Inspector or other proper officer in that behalf named in any Act in force in the Province in which such purchase is made, within twenty days next after the date of such purchase, is guilty of a misdemeanor and shall be liable to any penalty not exceeding in amount double the value of the gold or silver purchased, and to be imprisoned in any gaol or place of confinement, other than the penitentiary, for any term less than two years with or without hard labour, and with or without solitary confinement.

Search warrant for such quartz, gold or silver: and order thereon.

33. On complaint in writing made to any Justice of the Peace of the county, district, or place, by any person interested in any mining claim, that mined gold or gold bearing quartz, or mined or unmanufactured silver or silver ore, is unlawfully deposited in any place, or held by any person contrary to law, a general search warrant may be issued by such justice, as in the case of stolen goods, including any number of places or persons named in such complaint, and if, upon such search, any such gold or gold-bearing quartz, or silver or silver ore be found to be unlawfully deposited or held, the justice shall make such order for the restoration thereof to the lawful owner as he considers right.

Appeal allowed on certain conditions.

34. The decision of such justice shall be subject to appeal as in ordinary cases, on summary conviction, but before such appeal shall be allowed, the Appellant shall enter into a recognizance in the manner by law provided in cases of appeal from summary convictions, to the value of the gold or other property in question, that he will prosecute his appeal at the next

next sittings of any court having jurisdiction in that behalf, and will pay the costs of the appeal in case of a decision against him, and in case of the defendant appealing that he will pay such fine as the court may impose, with costs.

Possession of ore, gold, silver, &c., to be *primâ facie* evidence in certain cases.

35. When any smelted gold or silver, or any gold-bearing quartz, or any unsmelted or otherwise unmanufactured gold or silver, is found in the possession of any operative, workman or labourer, actively engaged in or on any mine, contrary to the provisions of any law in that behalf, such possession shall be *primâ facie* evidence that the same has been stolen by him.

Form of indictment under next five preceding sections.

36. In any indictment brought under any of the five next preceding sections, it shall be sufficient to lay the property in the Queen, or in any person or persons, or corporation, in different counts in such indictment; and any variance in the latter case, between the statement in the indictment and the evidence adduced, may be amended at the trial, and if no owner be proved the indictment may be amended by laying the property in the Queen.

Punishment of fraud on partners.

37. Whosoever with intent to defraud his co-partner, co-adventurer, joint tenant or tenant in common, in any claim, or in any share or interest in any claim, secretly keeps back or conceals any gold or silver found in or upon or taken from such claim, is guilty of felony, and shall be liable to be punished in the same manner as in the case of simple larceny.

Larceny, &c., by partners.

Partners stealing property of partnership.

38. Whosoever, being a member of any co-partnership owning any money or other property, or being one of two or more beneficial owners of any money or other property, steals, embezzles, or unlawfully converts the same or any part thereof to his own use, or that of any person other than the owner, shall be liable to be dealt with, tried, convicted and punished as if he had not been or were not a member of such co-partnership, or one of such beneficial owners.

As to larceny from the person, and other like offences.

Robbery, or stealing from the person.

39. Whosoever robs any person, or steals any chattel, money or valuable security from the person of another, is guilty of felony, and shall be liable to be imprisoned in the penitentiary for any term not exceeding fourteen years and not less than two years, or to be imprisoned in any other gaol or place of confinement for any term less than two years, with or without hard labour, and with or without solitary confinement.

On trial for robbery, jury may convict of an assault with intent to rob.

40. If upon the trial of any person upon an indictment for robbery it appears to the jury upon the evidence that the defendant did not commit the crime of robbery, but that he did commit an assault with intent to rob, the defendant shall not by reason thereof be entitled to be acquitted, but the jury shall be at liberty to return as their verdict that the defendant is guilty of an assault with intent to rob; and thereupon such defendant shall be liable to be punished in the same manner as if he had been convicted upon an indictment for feloniously assaulting with intent to rob; and no person so tried as is herein lastly mentioned shall be liable to be afterwards prosecuted for an assault with intent to commit the robbery for which he was so tried.

Assault with intent to rob.

41. Whosoever assaults any person with intent to rob is guilty of felony, and shall (save and except in cases where a greater punishment is provided by this Act) be liable to be imprisoned in the penitentiary for any term not exceeding three years and not less than two years, or to be imprisoned in any other gaol or place of confinement for any term less than two years, with or without hard labour, and with or without solitary confinement.

Robbery or assault by a person armed, or by two or more, or robbery and wounding.

42. Whosoever being armed with any offensive weapon or instrument, robs or assaults with intent to rob any person, or together with one or more other person or persons, robs or assaults with intent to rob any person, or robs any person and at the time of or immediately before or immediately after such robbery wounds, beats, strikes, or uses any other personal violence to any person is guilty of felony, and shall be liable to be imprisoned in the penitentiary for life, or for any term not less than two years, or to be imprisoned in any other gaol or place of confinement for any term less than two years, with or without hard labour, and with or without solitary confinement.

Letters demanding money, &c., with menaces.

43. Whosoever sends, delivers, or utters, or directly or indirectly causes to be received, knowing the contents thereof, any letter or writing, demanding of any person with menaces, and without any reasonable or probable cause, any property, chattel, money, valuable security, or other valuable thing, is guilty of felony, and shall be liable to be imprisoned in the penitentiary for life or for any term not less than two years, or to be imprisoned in any other gaol or place of confinement for any term less than two years, with or without hard labour, and with or without solitary confinement.

Demanding money, &c., with menaces or by force,

44. Whosoever with menaces or by force demands any property, chattel, money, valuable security or other valuable thing of any person with intent to steal the same, is guilty of

of felony, and shall be liable to be imprisoned in the penitentiary for the term of two years, or to be imprisoned in any other gaol or place of confinement for any term less than two years, with or without hard labour, and with or without solitary confinement. with intent to steal.

45. Whosoever sends, delivers or utters, or directly or indirectly causes to be received, knowing the contents thereof, any letter or writing, accusing or threatening to accuse or cause to be accused any other person of any crime punishable by law with death or imprisonment in the penitentiary for not less than seven years, or of any assault with intent to commit any rape, or of any attempt to endeavour to commit any rape, or of any infamous crime as hereinafter defined with a view or intent in any of such cases to extort or gain by means of such letter or writing, any property, chattel, money, valuable security or other valuable thing from any person, is guilty of felony, and shall be liable to be imprisoned in the penitentiary for life, or for any term not less than two years, or to be imprisoned in any other gaol or place of confinement for any term less than two years, with or without hard labour, and with or without solitary confinement; and the abominable crime of buggery, committed either with mankind or with beast, and every assault with intent to commit the said abominable crime, and every attempt or endeavor to commit the said abominable crime, and every solicitation, persuasion, promise, or threat offered or made to any person whereby to move or induce such person to commit or permit the said abominable crime, shall be deemed to be an infamous crime within the meaning of this Act, and every species of parting with any such letter to the end that it may come, or whereby it comes into the hands of the person for whom it is intended, shall be deemed a sending of such letter. Letter threatening to accuse of crime with intent to extort. "Infamous crime" defined.

46. Whosoever accuses or threatens to accuse either the person to whom such accusation or threat is made or any other person of any of the infamous or other crimes lastly hereinbefore mentioned, with the view or intent in any of the cases last aforesaid to extort or gain from such person so accused or threatened to be accused, or from any other person, any property, chattel, money, valuable security or other valuable thing, is guilty of felony, and shall be liable to be imprisoned in the penitentiary for life, or for any term not less than two years, or to be imprisoned in any other gaol or place of confinement for any term less than two years, with or without hard labour. Accusing or threatening to accuse, with intent to extort.

47. Whosoever, with intent to defraud or injure any other person, by any unlawful violence to or restraint of, or threat of violence to or restraint of the person of another, or by accusing Inducing a person by threats or violence to

execute deeds, &c., with intent to defraud.

cusing or threatening to accuse any person of any treason, felony or infamous crime as hereinbefore defined, compels or induces any person to execute, make, accept, indorse, alter or destroy the whole or any part of any valuable security, or to write impress or affix his name, or the name of any other person or of any company, firm or co-partnership, or the seal of any body corporate, company or society, upon or to any paper or parchment, in order that the same may be afterwards made or converted into or used or dealt with as a valuable security, is guilty of felony, and shall be liable to be imprisoned in the penitentiary for life, or for any term not less than two years, or to be imprisoned in any other gaol or place of confinement for any term less than two years, with or without hard labour, and with or without solitary confinement.

Immaterial by whom menaces are to be executed.

48. It shall be immaterial whether the menaces or threats hereinbefore mentioned be of violence, injury or accusation to be caused or made by the offender or by any other person.

As to sacrilege, burglary and house-breaking.

Breaking and entering a church, &c., and committing a felony.

49. Whosoever breaks and enters any church, chapel, meeting-house or other place of Divine worship and commits any felony therein, or being in any church, chapel, meeting-house or other place of Divine worship, commits any felony therein and breaks out of the same, is guilty of felony, and shall be liable to be imprisoned in the penitentiary for life or for any term not less than two years, or to be imprisoned in any other gaol or place of confinement for any term less than two years, with or without hard labour, and with or without solitary confinement.

Burglary by breaking out.

50. Whosoever enters the dwelling-house of another with intent to commit any felony therein, or being in such dwelling-house, commits any felony therein, and in either case, breaks out of the said dwelling house in the night, is guilty of burglary.

Punishment for burglary.

51. Whosoever is convicted of the crime of burglary, shall be liable to be imprisoned in the penitentiary for life, or for any term not less than two years, or to be imprisoned in any other gaol or place of confinement for any term less than two years, with or without hard labour, and with or without solitary confinement.

What building within curtilage to be deemed part of dwelling house.

52. No building, although within the same curtilage with any dwelling-house, and occupied therewith, shall be deemed to be part of such dwelling-house for any of the purposes of this Act, unless there shall be a communication between such

such building and dwelling-house, either immediate or by means of a covered and enclosed passage leading from the one to the other.

Entering a dwelling house in the night, with intent to commit any felony.

53. Whosoever enters any dwelling-house in the night with intent to commit any felony therein, is guilty of felony, and shall be liable to be imprisoned in the penitentiary for any term not exceeding seven years and not less than two years, or to be imprisoned in any other gaol or place of confinement for any term less than two years, with or without hard labour, and with or without solitary confinement.

Breaking into any building within the curtilage, but which is no part of the dwelling house and committing any felony.

54. Whosoever breaks and enters any building and commits any felony therein, such building being within the curtilage of a dwelling-house and occupied therewith, but not being part thereof according to the provision hereinbefore mentioned, or being in any such building commits any felony therein and breaks out of the same, is guilty of felony, and shall be liable to be imprisoned in the penitentiary for any term not exceeding fourteen years and not less than two years, or to be imprisoned in any other gaol or place of confinement for any term less than two years, with or without hard labour, and with or without solitary confinement.

Breaking into any house, shop, &c., and committing any felony.

55. Whosoever breaks and enters any dwelling-house, school-house, shop, warehouse or counting-house, and commits any felony therein, or being in any dwelling-house, school-house, shop, warehouse or counting-house, commits any felony therein and breaks out of the same, is guilty of felony, and shall be liable to be imprisoned in the penitentiary for any term not exceeding fourteen years and not less than two years, or to be imprisoned in any other gaol or place of confinement for any term less than two years, with or without hard labour, and with or without solitary confinement.

House breaking with intent to commit a felony.

56. Whosoever breaks and enters any dwelling-house, church, chapel, meeting-house, or other place of Divine worship, or any building within the curtilage, school-house, shop, warehouse, or counting-house, with intent to commit any felony therein, is guilty of felony, and shall be liable to be imprisoned in the penitentiary for any term not exceeding seven years nor less than two years, or to be imprisoned in any other gaol or place of confinement for any term less than two years, with or without hard labour, and with or without solitary confinement.

Punishment where the burglary charged is not

57. Whosoever is indicted for any burglary, where the breaking and entering are proved at the trial to have been made in the day-time and no breaking-out appears to have been

clearly proven, but the breaking, &c., is proven.

been made in the night-time, or where it is left doubtful whether such breaking and entering or breaking-out took place in the day or night-time, shall be acquitted of the burglary, but may be convicted of the offence specified in the next preceding section.

When proof of a burglary committed shall not be a defence to a charge of breaking, &c., with intent only; and when offender may be again indicted for burglary.

58. It shall not be available, by way of defence to a person charged with the offence specified in the next preceding section but one, to show that the breaking and entering were such as to amount in law to burglary: Provided that the offender shall not be afterwards prosecuted for burglary upon the same facts, but it shall be open to the court before whom the trial for such offence takes place, upon the application of the person conducting the prosecution to allow an acquittal on the ground that the offence, as proved, amounts to burglary; and if an acquittal takes place on such ground, and is so returned by the jury in delivering their verdict, the same shall be recorded together with the verdict, and such acquittal shall not then avail as a bar or defence upon an indictment for such burglary.

Being armed or disguised, &c., with intent to break and enter any house in the night.

59. Whosoever is found by night armed with any dangerous or offensive weapon or instrument whatsoever, with intent to break or enter into any dwelling-house or other building whatsoever, and to commit any felony therein, or is found by night having in his possession without lawful excuse (the proof of which excuse shall lie on such person), any picklock key, crow, jack, bit, or other implement of house-breaking, or any match or combustible or explosive substance, or is found by night having his face blackened or otherwise disguised with intent to commit any felony, or is found by night in any dwelling-house or other building whatsoever, with intent to commit any felony therein, is guilty of a misdemeanor, and shall be liable to be imprisoned in the penitentiary for any term not exceeding three years and not less than two years, or to be imprisoned in any other gaol or place of confinement for any term less than two years, with or without hard labour.

The like after a previous conviction.

60. Whosoever is convicted of any such misdemeanor as in the last preceding section mentioned committed after a previous conviction either for felony or such misdemeanor, shall, on such subsequent conviction, be liable to be imprisoned in the penitentiary for any term not exceeding ten years and not less than two years, or to be imprisoned in any other gaol or place of confinement for any term less than two years, with or without hard labour.

As

As to larceny in the house.

Stealing in a dwelling house to the value of $25.

61. Whosoever steals in any dwelling-house any chattel, money or valuable security to the value in the whole of twenty-five dollars or more, is guilty of felony, and shall be liable to be imprisoned in the penitentiary for any term not exceeding fourteen years and not less than two years, or to be imprisoned in any other gaol or place of confinement for any term less than two years, with or without hard labour, and with or without solitary confinement.

Stealing in a dwelling house with menaces.

62. Whosoever steals any chattel, money or valuable security in any dwelling house, and by any menace or threat puts any one therein in bodily fear, is guilty of felony, and shall be liable to be imprisoned in the penitentiary for any term not exceeding fourteen years and not less than two years, or to be imprisoned in any other gaol or place of confinement for any term less than two years, with or without hard labour, and with or without solitary confinement.

As to larceny in manufactories.

Stealing goods in process of manufacture.

63. Whosoever steals to the value of two dollars any woolen, linen, hempen or cotton yarn, or any goods or articles of silk, woollen, linen, cotton, alpaca or mohair, or of any one or more of those materials mixed with each other or mixed with any other material, whilst laid, placed or exposed, during any stage, process or progress of manufacture, in any building, field or other place, is guilty of felony, and shall be liable to be imprisoned in the penitentiary for any term not exceeding fourteen years and not less than two years, or to be imprisoned in any other gaol or place of confinement for any term less than two years, with or without hard labour, and with or without solitary confinement.

Stealing goods intrusted for manufacture.

64. Whosoever having been intrusted, for the purpose of manufacture or for a special purpose connected with manufacture, or employed to make any felt or hat or to prepare or work up any woollen, linen, fustian, cotton, iron, leather, fur, hemp, flax, cotton, silk or any such materials mixed with one another, or having been so intrusted as aforesaid, with any other article, materials, fabric or thing, or with any tools or apparatus for manufacturing the same, sells, pawns, purloins, secretes, embezzles, exchanges, or otherwise fraudulently disposes of the same, or any part thereof, where the case does not fall within the last preceding section hereof, is guilty of a misdemeanor, and shall be liable to be imprisoned in any gaol or place of confinement other than a penitentiary, for any term less than two years, with or without hard labour, and with or without solitary confinement.

As

As to larceny in ships, wharfs, &c.

Stealing from ships, wharfs, &c.

65. Whosoever steals any goods or merchandise in any vessel, barge or boat of any description whatsoever, in any haven or in any port of entry or discharge, or upon any navigable river or canal, or in any creek or basin belonging to or communicating with any such haven, port, river or canal, or steals any goods or merchandise from any dock, wharf or quay, adjacent to any such haven, port, river, canal, creek or basin, is guilty of felony, and shall be liable to be imprisoned in the penitentiary for any term not exceeding fourteen years and not less than two years, or to be imprisoned in any other gaol or place of confinement for any term less than two years, with or without hard labour, and with or without solitary confinement.

Stealing from ship in distress or wrecked.

66. Whosoever plunders or steals any part of any ship or vessel in distress or wrecked, stranded or cast on shore, or any goods, merchandise or articles of any kind belonging to such ship or vessel, is guilty of felony, and shall be liable to be imprisoned in the penitentiary for any term not exceeding fourteen years and not less than two years, or to be imprisoned in any other gaol or place of confinement for any term less than two years, with or without hard labour, and with or without solitary confinement; and the offender may be indicted and tried either in the district, county or place in which the offence has been committed, or in any district, county or place next adjoining, or in which he has been apprehended or is in custody.

Persons in possession of ship wrecked goods not giving a satisfactory account.

67. If any goods, merchandise or articles of any kind belonging to any ship or vessel in distress or wrecked, stranded or cast on shore, are found in the possession of any person, or on the premises of any person, with his knowledge, and such person being taken or summoned before a Justice of the Peace, does not satisfy the justice that he came lawfully by the same, then the same shall, by order of the justice be forthwith delivered over to or for the use of the rightful owner thereof, and the offender shall, on conviction of such offence before the justice, at the discretion of the justice, either be committed to the common gaol or house of correction, there to be imprisoned only or to be imprisoned and kept to hard labour for any term not exceeding three months, or else shall forfeit and pay over and above the value of the goods, merchandise or articles, such sum of money not exceeding twenty dollars, as to the justice may seem meet.

If any person offers shipwrecked goods for

68. If any person offers or exposes for sale any goods, merchandise or articles whatsoever, unlawfully taken or reasonably suspected so to have been taken from any ship or vessel in

in distress or wrecked, stranded or cast on shore,—in every such case any person to whom the same are offered for sale, or any officer of customs, or excise or peace officer may lawfully seize the same, and shall, with all convenient speed, carry the same or give notice of such seizure to some Justice of the Peace; and if the person who has offered or exposed the same for sale, being summoned by such justice does not appear and satisfy the justice that he came lawfully by such goods, merchandise or articles, then the same shall, by order of the justice, be forthwith delivered over to or for the use of the rightful owner thereof, upon payment of a reasonable reward (to be ascertained by the justice) to the person who seized the same; and the offender shall, on conviction of such offence by the justice, at the discretion of the justice, either be committed to the common gaol or house of correction, there to be imprisoned only, or to be imprisoned and kept to hard labour, for any term not exceeding three months, or else shall forfeit and pay over and above the value of the goods, merchandise or articles, such sum of money not exceeding twenty dollars as to the justice seems meet.

sale, the goods may be seized, &c.

As to larceny or embezzlement by clerks, servants, or persons in the Public Service.

69. Whosoever being a clerk or servant, or being employed for the purpose or in the capacity of a clerk or servant, steals any chattel, money or valuable security belonging to or in the possession or power of his master or employer, is guilty of felony, and shall be liable to be imprisoned in the penitentiary for any term not exceeding fourteen years and not less than two years, or to be imprisoned in any other gaol or place of confinement for any term less than two years, with or without hard labour, and with or without solitary cofinement.

Larceny by clerks or servants.

70. Whosoever being a clerk or servant, or being employed for the purpose or in the capacity of a clerk or servant, fraudulently embezzles any chattel, money, or valuable security, delivered to or received, or taken into possession by him, for or in the name or on the account of his master or employer, or any part thereof, shall be deemed to have feloniously stolen the same from his master or employer, although such chattel, money, or security was not received into the possession of such master or employer, otherwise than by the actual possession of his clerk, servant, or other person so employed, and shall be liable to be imprisoned in the penitentiary for any term not exceeding fourteen years and not less than two years, or to be imprisoned in any other gaol or place of confinement for any term less than two years, with

Embezzlement by clerks or servants.

with or without hard labour, and with or without solitary confinement.

Larceny by persons in the Queen's service, or that of any Provincial Government, &c.

71. Whosoever being employed in the public service of Her Majesty, or of the Lieutenant Governor or Government of any Province of Canada, or of any municipality, steals any chattel, money or valuable security belonging to or in the possession or power of Her Majesty or of such Lieutenant Governor, government or municipality, or intrusted to or received or taken into possession by him by virtue of his employment, is guilty of felony, and shall be liable to be imprisoned in the penitentiary for any term not exceeding fourteen years and not less than two years, or to be imprisoned in any other gaol or place of confinement for any term less than two years, with or without hard labour, and with or without solitary confinement.

Embezzlement by persons employed in the Queen's service, or that of any Provincial Government, &c.

72. Whosoever, being employed in the public service of Her Majesty, or of the Lieutenant Governor or Government of any Province of Canada, or of any municipality, and intrusted by virtue of such employment with the receipt, custody, management or control of any chattel, money or valuable security, embezzles any chattel, money or valuable security entrusted to or received or taken into possession by him by virtue of his employment, or any part thereof, or in any manner fraudulently applies or disposes of the same, or any part thereof, to his own use or benefit, or for any purpose whatsoever, except for the public service, or the service of such Lieutenant Governor, government or municipality, shall be deemed to have feloniously stolen the same from Her Majesty, or from such municipality, and shall be liable to be imprisoned in the penitentiary for any term not exceeding fourteen years and not less than two years, or to be imprisoned in any other gaol or place of confinement for any term less than two years, with or without hard labour; and every offender against this and the last preceding section may be dealt with, indicted, tried and punished either in the district, county or place in which he is apprehended or is in custody, or in which he has committed the offence; and in every case of larceny, embezzlement or fraudulent application or disposition of any chattel, money or valuable security in this and the last preceding section mentioned, it shall be lawful in the warrant of commitment by the Justice of the Peace, before whom the offender is charged, and in the indictment to be preferred against such offender, to lay the property of any such chattel, money or valuable security in Her Majesty or in the municipality, as the case may be.

Distinct acts of embezzlement, &c., may be charged in the same indictment.

73. For preventing difficulties in the prosecution of offenders in any case of embezzlement, fraudulent application or disposition hereinbefore mentioned, it shall be lawful to charge in the indictment and proceed against the offender for any number of distinct acts of embezzlement, or of fraudulent application or disposition, not exceeding three, which may have been committed by him against Her Majesty or against the same municipality, master or employer within the space of six months from the first to the last of such acts, and in every such indictment, where the offence relates to any money or any valuable security, it shall be sufficient to allege the embezzlement or fraudulent application or disposition to be of money, without specifying any particular coin or valuable security; and such allegation, so far as regards the description of the property, shall be sustained if the offender be proved to have embezzled or fraudulently applied or disposed of any amount, although the particular species of coin or valuable security of which such amount was composed, is not proved, or if he is proved to have embezzled or fraudulently applied or disposed of any piece of coin or any valuable security, or any portion of the value thereof, although such piece of coin or valuable security has been delivered to him in order that some part of the value thereof should be returned to the party delivering the same or to some other person, and such part has been returned accordingly.

Person indicted for embezzlement as a clerk, &c., not to be acquitted if the offence turn out to be larceny, &c., but to be convicted of larceny, and *vice versâ*.

74. If upon the trial of any person indicted for embezzlement or fraudulent application or disposition as aforesaid, it is proved that he took the property in question in any such manner as to amount in law to larceny, he shall not by reason thereof be entitled to be acquitted, but the jury shall be at liberty to return as their verdict that such person is not guilty of embezzlement or fraudulent application or disposition, but is guilty of simple larceny or larceny as a clerk, servant, or person employed for the purpose or in the capacity of a clerk or servant, or as a person employed in the public service (as the case may be), and thereupon such person shall be liable to be punished in the same manner as if he had been convicted upon an indictment for such larceny; and if upon the trial of any person indicted for larceny it is proved that he took the property in question, in any such manner as to amount in law to embezzlement or fraudulent application or disposition as aforesaid, he shall not by reason thereof be entitled to be acquitted, but the jury shall be at liberty to return as their verdict that such person is not guilty of larceny, but is guilty of embezzlement or fraudulent application or disposition, as the case may be, and thereupon such person shall be liable to be punished in the same manner as if he had been convicted upon

upon an indictment for such embezzlement, fraudulent application or disposition; and no person so tried for embezzlement, fraudulent application or disposition, or larceny as aforesaid shall be liable to be afterwards prosecuted for larceny, fraudulent application or disposition or embezzlement upon the same facts.

As to larceny by tenants or lodgers.

Tenant or lodger stealing chattel or fixture let to hire with house or lodgings.

75. Whosoever steals any chattel or fixture let to be used by him or her, in or with any house or lodging, whether the contract has been entered into by him or her, or by her husband, or by any person on behalf of him or her or her husband, is guilty of felony, and shall be liable to be imprisoned for any term less than two years, with or without hard labour, and with or without solitary confinement, and in case the value of such chattel or fixture exceeds the sum of twenty-five dollars, shall be liable to be imprisoned in the penitentiary for any term not exceeding seven years and not less than two years, or to be imprisoned in any other gaol or place of confinement for any term less than two years, with or without hard labour, and with or without solitary confinement; and in every case of stealing any chattel, in this section mentioned, it shall be lawful to prefer an indictment in the common form as for larceny, and in every case of stealing any fixture, in this section mentioned, to prefer an indictment in the same form as if the offender were not a tenant or lodger, and in either case to lay the property in the owner or person letting to hire.

As to frauds by agents, bankers, or factors.

Agent, banker, &c., embezzling money or selling securities, &c., intrusted to him.

76. Whosoever, having been intrusted, either solely or jointly with any other person, as a banker, merchant, broker, attorney or other agent, with any money or security for the payment of money, with any direction in writing to apply, pay or deliver such money or security or any part thereof respectively, or the proceeds, or any part of the proceeds of such security for any purpose, or to any person specified in such direction, in violation of good faith, and contrary to the terms of such direction, in anywise converts to his own use or benefit, or the use or benefit of any person other than the person by whom he has been so intrusted, such money, security or proceeds, or any part thereof respectively, and

Or goods, &c., intrusted to him for safe custody.

whosoever, having been intrusted, either solely or jointly with any other person, as a banker, merchant, broker, attorney or other agent, with any chattel or valuable security, or any power of attorney for the sale or transfer of any share or interest in any public stock or fund, whether of the United

United Kingdom, or any part thereof, or of this Dominion of Canada, or any Province thereof, or of any British colony or possession, or of any foreign state, or in any stock or fund of any body corporate, company or society, for safe custody or for any special purpose without any authority to sell, negotiate, transfer or pledge, in violation of good faith, and contrary to the object or purpose for which such chattel, security or power of attorney has been intrusted to him, sells, negotiates, transfers, pledges, or in any manner converts to his own use or benefit, or the use or benefit of any person other than the person by whom he has been so intrusted, such chattel or security, or the proceeds of the same, or any part thereof, or the share or interest in the stock or fund to which such power of attorney relates, or any part thereof, is guilty of a misdemeanor, and shall be liable to be imprisoned in the penitentiary for any term not exceeding seven years and not less than two years, or to be imprisoned in any other gaol or place of confinement for any term less than two years, with or without hard labour, and with or without solitary confinement: but nothing in this section contained relating to agents shall affect any trustee in or under any instrument whatsoever, or any mortgagee of any property, real or personal, in respect to any act done by such trustee or mortgagee in relation to the property comprised in or affected by any such trust or mortgage; nor shall restrain any banker, merchant, broker, attorney or other agent from receiving any money due or to become actually due and payable upon or by virtue of any valuable security, according to the tenor and effect thereof, in such manner as he might have done if this Act had not been passed; nor from selling, transferring, or otherwise disposing of any securities or effects in his possession, upon which he has any lien, claim or demand, entitling him by law so to do, unless such sale, transfer or other disposal extends to a greater number or part of such securities or effects than are requisite for satisfying such lien, claim or demand.

Punishment

Not to apply to trustees or mortgagees.

Nor to bankers, &c., receiving money due on securities.

Or disposing of securities on which they have a lien.

77 Whosoever, being a banker, merchant, broker, attorney or agent, and being intrusted, either solely or jointly with any other person, with the property of any other person for safe custody, with intent to defraud, sells, negotiates, transfers, pledges, or in any other manner converts or appropriates the same or part thereof, to or for his own use or benefit, or the use or benefit of any person other than the person by whom he was so intrusted is guilty of a misdemeanor, and shall be liable to any of the punishments which the court may award as hereinbefore last mentioned.

Bankers, &c., fraudulently selling, &c., property intrusted to their care.

78. Whosoever, being intrusted, either solely or jointly wi any other person, with any power of attorney, for the sale

Persons under powers of attorney

fraudulently selling property.

sale or transfer of any property, fraudulently sells or transfers, or otherwise converts the same or any part thereof to his own use or benefit, or the use or benefit of any person other than the person by whom he was so intrusted, is guilty of a misdemeanor, and shall be liable to any of the punishments which the court may award as hereinbefore last mentioned.

Factors obtaining advances on the property of their principals.

79. Whosoever, being a factor or agent intrusted, either solely or jointly with any other person, for the purpose of sale or otherwise, with the possession of any goods, or of any document of title to goods, contrary to or without the authority of his principal in that behalf, for his own use or benefit, or the use or benefit of any person, other than the person by whom he was so intrusted, and in violation of good faith, makes any consignment, deposit, transfer or delivery of any goods or document of title so intrusted to him as in this section before mentioned, as and by way of a pledge, lien or security for any money or valuable security, borrowed or received by such factor or agent at or before the time of making such consignment, deposit transfer or delivery, or intended to be thereafter borrowed or received, or contrary to, or without such authority, for his own use or benefit, or the use or benefit of any person other than the person by whom he was so intrusted, and in violation of good faith, accepts any advance of any money or valuable security on the faith of any contract or agreement to consign, deposit, transfer or deliver any such goods, or document of title, is guilty of a misdemeanor, and shall be liable to any of the punishments which the court may award as hereinbefore last mentioned; and every clerk or other person who knowingly and wilfully acts and assists in making any such consignment, deposit, transfer or delivery, or in accepting or procuring such advance as aforesaid, is guilty of a misdemeanor, and shall be liable to any of the same punishments: Provided that no such factor or agent shall be liable to any prosecution for consigning, depositing, transferring or delivering any such goods or documents of title, in case the same are not made a security for, or subject to the payment of any greater sum of money than the amount, which at the time of such consignment, deposit, transfer or delivery, was justly due and owing to such agent from his principal, together with the amount of any bill of exchange drawn by or on account of such principal, and accepted by such factor or agent.

Clerks wilfully assisting.

Proviso, as to cases excepted when the pledge does not exceed the amount of their lien.

Definitions of terms:

"Intrusted."

80. Any factor or agent intrusted as aforesaid, and possessed of any such document of title, whether derived immediately from the owner of such goods, or obtained by reason of such factor or agent having been intrusted with the

the possession of the goods, or of any other document of title thereto, shall be deemed to have been intrusted with the possession of the goods represented by such document of title; and every contract pledging or giving a lien upon such document of title as aforesaid, shall be deemed to be a pledge of and lien upon the goods to which the same relates; and such factor or agent shall be deemed to be possessed of such goods or document, whether the same are in his actual custody or held by any other person subject to his control, or for him, or on his behalf; and where any loan or advance is *bonâ fide* made to any factor or agent intrusted with and in possession of any such goods or document of title, on the faith of any contract or agreement in writing to consign, deposit, transfer or deliver such goods or document of title, and such goods or document of title is or are actually received by the person making such loan or advance, without notice that such factor or agent was not authorized to make such pledge or security, every such loan or advance shall be deemed to be a loan or advance on the security of such goods or document of title, within the meaning of the last preceding section, though such goods or document of title are not actually received by the person making such loan or advance till a period subsequent thereto; and any contract or agreement whether made direct with such factor or agent, or with any clerk or other person on his behalf, shall be deemed a contract or agreement with such factor or agent; and any payment made, whether by money or bill of exchange or other negotiable security, shall be deemed to be an advance within the meaning of the last preceding section; and a factor or agent in possession, as aforesaid, of such goods or document, shall be taken for the purpose of the last preceding section, to have been intrusted therewith by the owner thereof, unless the contrary be shown in evidence.

"Pledge."

"Possessed."

"Loan or advance."

"Contract or agreement."

"Advance."

Possession to be evidence of intrusting.

81. Whosoever, being a trustee of any property for the use or benefit, either wholly or partially, of some other person, or for any public or charitable purpose, with intent to defraud, converts or appropriates the same or any part thereof to or for his own use or benefit, or the use or benefit of any person other than such person as aforesaid, or for any purpose other than such public or charitable purpose as aforesaid or otherwise disposes of or destroys such property or any part thereof, is guilty of a misdemeanor, and shall be liable to any of the punishments which the court may award as hereinbefore last mentioned: Provided that no proceeding or prosecution for any offence included in this section shall be commenced without the sanction of the Attorney General, or Solicitor General for that Province

Trustees fraudulently disposing of property guilty of a misdemeanor.

No prosecution shall be commenced without the sanction of some judge or

the Attorney General.

vince in which the same is to be instituted: Provided also, that when any civil proceeding has been taken against any person to whom the provisions of this section may apply, no person who has taken such civil proceeding shall commence any prosecution under this section without the sanction of the court or judge before whom such civil proceeding has been had or is pending.

Directors, &c., of any body corporate or public company fraudulently appropriating property.

82. Whosoever, being a director, member, manager or public officer of any body corporate or public company, fraudulently takes or applies for his own use or benefit, or for any use or purposes other than the use or purposes of such body corporate or public company, any of the property of such body corporate or public company, is guilty of a misdemeanor, and shall be liable to any of the punishments which the court may award as hereinbefore last mentioned.

Or fraudulently keeping false accounts or books.

83. Whosoever being a director, member, manager or public officer of any body corporate or public company, as such receives or possesses himself of any of the property of such body corporate or public company, otherwise than in payment of a just debt, or demand, and with intent to defraud, omits to make or to cause or direct to be made a full and true entry thereof in the books and accounts of such body corporate or public company, is guilty of a misdemeanor, and shall be liable to any of the punishments which the court may award as hereinbefore last mentioned.

Or wilfully destroying or falsifying books or papers, &c.

84. Whosoever, being a director, manager, public officer or member of any body corporate or public company, with intent to defraud, destroys, alters, mutilates or falsifies any book, paper, writing or valuable security belonging to the body corporate or public company, or makes or concurs in the making of any false entry, or omits, or concurs in omitting any material particular in any book of account or document, is guilty of a misdemeanor, and shall be liable to any of the punishments which the court may award as hereinbefore last mentioned.

Or fraudulently publishing false statements or accounts.

85. Whosoever, being a director, manager, or public officer or member of any body corporate or public company, makes, circulates or publishes, or concurs in making, circulating or publishing any written statement or account which he knows to be false in any material particular, with intent to deceive or defraud any member, shareholder or creditor of such corporate or public company, or with intent to induce any person to become a shareholder or partner therein, or to intrust or advance any property to such body corporate or public company, or to enter into any security for the benefit thereof, is guilty of a misdemeanor,

meanor, and shall be liable to any of the punishments which the court may award as hereinbefore last mentioned.

No person to be exempt from answering questions in any court; but no person making a disclosure in any compulsory proceeding to be liable to prosecution.

86. Nothing in any of the last ten preceding sections of this Act contained shall enable or entitle any person to refuse to make a full and complete discovery by answer to any bill in equity, or to answer any question or interrogatory in any civil proceeding in any court, or upon the hearing of any matter in bankruptcy or insolvency; and no person shall be liable to be convicted of any of the misdemeanors in the said sections mentioned by any evidence whatever, in respect of any act done by him, if, at any time previously to his being charged with such offence, he has first disclosed such act on oath, in consequence of any compulsory process of any court of law or equity, in any action, suit or proceeding, *bonâ fide* instituted by any party aggrieved, or if he has first disclosed the same in any compulsory examination or deposition before any court, upon the hearing of any matter in bankruptcy or insolvency.

No remedy at law or in equity to be affected.

87. Nothing in the last eleven preceding sections of this Act contained, nor any proceeding, conviction or judgment to be had or taken thereon against any person under any of the said sections shall prevent, lessen, or impeach any remedy at law or in equity, which any party aggrieved by any offence against any of the said sections might have had if this Act had not been passed; but no conviction of any such offender shall be received in evidence in any action at law or suit in equity against him; and nothing in the said sections contained shall affect or prejudice any agreement entered into, or security given by any trustee, having for its object the restoration or repayment of any trust property misappropriated.

Convictions not to be received in evidence in civil suits.

Keepers of warehouses, &c., giving false receipts.

88. If the keeper of any warehouse, or any forwarder, common carrier, agent, clerk, or other person employed in or about any warehouse, or if any other factor or agent, or any clerk or other person employed in or about the business of such factor or agent, knowingly and wilfully gives to any person a writing purporting to be a receipt for, or an acknowledgment of any goods or other property as having been received in his warehouse, or in the warehouse in or about which he is employed, or in any other manner received by him or by the person in or about whose business he is employed, before the goods or other property named in such receipt or acknowledgment have been actually delivered to him as aforesaid, with intent to mislead, deceive, injure or defraud any person or persons whomsoever, although such person or persons may be then unknown,—or if any person knowingly and wilfully accepts or transmits

Persons knowingly

using false receipts.

or uses any such false receipt or acknowledgment, the person giving and the person accepting, transmitting or using such receipt or acknowledgment, are severally guilty of a misdemeanor, and shall be liable to be imprisoned in the penitentiary for any term not exceeding three years, and not less than two years, or to be imprisoned in any other gaol or place of confinement for any term less than two years but not less than one year.

Owners selling after advance by consignees.

89. If any merchandise has, in the name of the owner or of any other person, been shipped or delivered to the keeper of any warehouse or to any other factor, agent or carrier, to be shipped or carried, and the consignee afterwards advances any moneys or gives any negotiable security to such owner or other person, then, if after any such advance the said owner or other person for his own benefit and in violation of good faith, and without the consent of such consignee first had and obtained, makes any disposition of such merchandise different from and inconsistent with the agreement made in that behalf between such owner or other person aforesaid and such consignee at the time of or before such money being so advanced or such negotiable security being so given, with the intent to deceive, defraud or injure such consignee, the owner or other person aforesaid, and each and every other person knowingly and wilfully acting and assisting in making such disposition for the purpose of deceiving, defrauding or injuring such consignee, is or are guilty of a misdemeanor, and shall be liable to be imprisoned in the penitentiary for any term not exceeding three years, and not less than two years, or to be imprisoned in any other gaol or place of confinement for any term less than two years, but not less than one year; but no person shall be subject to prosecution under this section, who had, before making a disposition of the merchandise aforesaid, paid or tendered to the consignee the full amount of any advance made thereon.

Proviso: If consignee's advances be paid.

Millers, factors, &c., giving receipts for goods, and not delivering the same accordingly.

90. Any miller, warehouseman, factor, agent, or other person, who, after having given, or after any clerk or person in his employ has to his knowledge given, as having been received by him, in any mill, warehouse, vessel, cove or other place, any receipt, certificate or acknowledgment, for grain, timber, or other goods or property, which can be used for any of the purposes mentioned in the Act passed in the thirty-first year of Her Majesty's reign and intituled: "*An Act respecting Banks*," or any person, who, after having obtained any such receipt, certificate, or acknowledgment, and after having endorsed or assigned it to any bank, or person, afterwards and without the consent of the holder, or, endorsee in writing, or the production and delivery of the receipt,

receipt, certificate, or acknowledgment, wilfully alienates, or parts with, or does not deliver to such holder or endorsee of such receipt, certificate or acknowledgment, the grain, timber, goods, or property therein mentioned, is guilty of a misdemeanor, and shall be liable to be imprisoned in the penitentiary for any term not exceeding three years, or in any other gaol or place of confinement for any term less than two years, but not less than one year: Provided that nothing in this section shall prevent the offender from being indicted and punished for larceny, instead of misdemeanor, if, as being a bailee, his offence amounts to larceny. Proviso.

As to partners.

91. If any offence in the last three preceding sections mentioned be committed by the doing of anything in the name of any firm, company or co-partnership of persons, the person by whom such thing is actually done, or who connives at the doing thereof, shall be deemed guilty of the offence, and not any other person.

Certain misdemeanors not triable at Sessions.

92. No misdemeanor against any of the sixteen last preceding sections of this Act shall be prosecuted or tried at any Court of General or Quarter Sessions of the Peace; and if upon the trial of any person under any of the said sections, it appears that the offence proved amounts to larceny, he shall not by reason thereof be entitled to be acquitted of a misdemeanor under the said sections.

As to obtaining money, &c., by false pretences.

False pretences.

93. Whosoever by any false pretence obtains from any other person any chattel, money or valuable security, with intent to defraud, is guilty of a misdemeanor, and shall be liable to be imprisoned in the penitentiary for any term not exceeding three years and not less than two years, or to be imprisoned in any other gaol or place of confinement for any term less than two years, with or without hard labour, and with or without solitary confinement: Provided, that if upon the trial of any person indicted for such misdemeanor, it is proved that he obtained the property in question in any such manner as to amount in law to larceny, he shall not by reason thereof be entitled to be acquitted of such misdemeanor; and no person tried for such misdemeanor shall be liable to be afterwards prosecuted for larceny upon the same facts: Provided also, that it shall be sufficient in any indictment for obtaining or attempting to obtain any such property by false pretences, to allege that the party accused did the act with intent to defraud, and without alleging an intent to defraud any particular person, and without alleging any ownership of the chattel, money, or valuable security; And on the trial of any such indictment

No acquittal because the offence amounts to larceny.

Form of indictmen and evidence.

ment it shall not be necessary to prove an intent to defraud any particular person, but it shall be sufficient to prove that the party accused did the act charged with an intent to defraud.

Where any money, &c., is paid to any person other than the person making a false pretence.

94. Whosoever, by any false pretence, causes or procures any money to be paid, or any chattel or valuable security to be delivered to any other person, for the use or benefit, or on account of the person making such false pretence, or of any other person, with intent to defraud, shall be deemed to have obtained such money, chattel or valuable security, within the meaning of the last preceding section.

Inducing persons by fraudulent means to execute deeds and other instruments.

95. Whosoever, with intent to defraud or injure any other person, by any false pretence fraudulently causes or induces any other person to execute, make, accept, endorse, or destroy the whole or any part of any valuable security, or to write, impress or affix his name, or the name of any other person, or of any company, firm or co-partnership, or the seal of any body corporate, company or society, upon any paper or parchment, in order that the same may be afterwards made or converted into or used or dealt with as a valuable security, is guilty of a misdemeanor, and shall be liable to be imprisoned in the penitentiary for any term not exceeding three years and not less than two years, or to be imprisoned in any other gaol or place of confinement for any term less than two years, with or without hard labour, and with or without solitary confinement.

Falsely pretending to have inclosed money or other property in a Post letter.

96. Whosoever for any purpose, or with any intent wrongfully and with wilful falsehood, pretends or alleges that he enclosed and sent or caused to be enclosed and sent in any post letter any money, valuable security, or chattel, which in fact he did not so enclose and send, or cause to be enclosed and sent therein, is guilty of a misdemeanor, and shall be liable to be punished as if he had obtained the money, valuable security, or chattel, so pretended to be enclosed or sent, by false pretences; and it shall not be necessary to allege in the indictment, or to prove on the trial, that the act was done with intent to defraud.

Winning money by cheating at games.

97. Whosoever by any fraud or unlawful device or ill practice in playing any game of cards or dice, or of any other kind, or at any race, or in betting on any event, wins or obtains any money or property from any other person, shall be held to have unlawfully obtained the same by false pretences, and shall be punishable accordingly.

98.

Obtaining passage in steamers, &c., by false tickets.

98. Whosoever by means of any false ticket or order, or of any other ticket or order, fraudulently and unlawfully obtains or attempts to obtain any passage on any railway, or in any steam or other vessel, is guilty of a misdemeanor, and shall be liable to be imprisoned in any common gaol or house of correction, with or without hard labour, for any period not exceeding six months.

Persons indicted for larceny may be convicted of obtaining by false pretences.

99. If upon the trial of any person for larceny, it appears that the property taken was obtained by such person by fraud under circumstances which do not amount to such taking as constitutes larceny, such person shall not by reason thereof be entitled to be acquitted, but the jury may return as their verdict, that such person is not guilty of larceny, but is guilty of obtaining such property by false pretences, with intent to defraud, if the evidence prove such to have been the case, and thereupon such person shall be punished in the same manner as if he had been convicted upon an indictment for obtaining property under false pretences, and no person so tried for larceny as aforesaid, shall be afterwards prosecuted for obtaining property by false pretences upon the same facts.

As to receiving stolen goods.

Receiving where the principal is guilty of felony.

100. Whosoever receives any chattel, money, valuable security, or other property whatsoever, the stealing, taking, extorting, obtaining, embezzling, and otherwise disposing whereof, amounts to a felony, either at common law or by virtue of this Act, knowing the same to have been feloniously stolen, taken, extorted, obtained, embezzled, or disposed of, is guilty of felony, and may be indicted and convicted either as an accessory after the fact or for a substantive felony, and in the latter case whether the principal felon shall or shall not have been previously convicted, or shall or shall not be amenable to justice; and every such receiver, howsoever convicted, shall be liable to be imprisoned in the penitentiary for any term not exceeding fourteen years and not less than two years, or to be imprisoned in any gaol or other place of confinement for any term less than two years, with or without hard labour, and with or without solitary confinement: Provided that no person howsoever tried for receiving as aforesaid, shall be liable to be prosecuted a second time for the same offence.

Indictment for stealing may have a count for receiving.

101. In any indictment containing a charge of feloniously stealing any property, it shall be lawful to add a count or several counts for feloniously receiving the same, or any part or parts thereof, knowing the same to have been stolen; and in any indictment for feloniously receiving any property,

property, knowing it to have been stolen, it shall be lawful to add a count for feloniously stealing the same; and where any such indictment has been preferred and found against any person, the prosecutor shall not be put to his election, but it shall be lawful for the jury who try the same to find a verdict of guilty, either of stealing the property or of receiving the same, or any part or parts thereof, knowing the same to have been stolen; and if such indictment has been found and preferred against two or more persons, it shall be lawful for the jury who try the same to find all or any of the said persons guilty either of stealing the property or receiving the same, or any part or parts thereof, knowing the same to have been stolen, or to find one or more of the said persons guilty of stealing the property, and the other or others of them guilty of receiving the same, or any part or parts thereof, knowing the same to have been stolen.

If two or more persons are included.

Separate receivers may be included in the same indictment, and in the absence of the principal.

102. Whenever any property whatsoever has been stolen, taken, extorted, obtained, embezzled or otherwise disposed of in any such a manner as to amount to a felony, either at common law or by virtue of this Act, any number of receivers at different times of such property, or of any part or parts thereof, may be charged with substantive felonies in the same indictment, and may be tried together, notwithstanding that the principal felon shall not be included in the same indictment, or shall not be in custody or amenable to justice.

As to convictions on an indictment for jointly receiving.

103. If upon the trial of two or more persons indicted for jointly receiving any property, it is proved that one or more of such persons separately received any part or parts of such property, it shall be lawful for the jury to convict, upon such indictment, such of the said persons as are proved to have received any part or parts of such property.

Receiving where the principal has been guilty of a misdemeanor.

104. Whosoever receives any chattel, money, valuable security, or other property whatsoever, the stealing, taking, obtaining, converting or disposing whereof is made a misdemeanor by this Act, knowing the same to have been unlawfully stolen, taken, obtained, converted or disposed of, is guilty of a misdemeanor, and may be indicted and convicted thereof, whether the person guilty of the principal misdemeanor has or has not been previously convicted thereof, or is or is not amenable to justice; and every such receiver shall be liable to be imprisoned in the penitentiary for any term not exceeding seven years and not less than two years, or to be imprisoned in any other gaol or place of confinement for any term less than two years, with or without hard labour and with or without solitary confinement.

Receiver where triable.

105. Whosoever receives any chattel, money, valuable security or other property whatsoever, knowing the same to have been feloniously or unlawfully stolen, taken, obtained, converted or disposed of, may whether charged as an accessory after the fact to the felony, or with a substantive felony, or with a misdemeanor only, be dealt with, indicted, tried, and punished in any county, district or place in which he has or has had any such property in his possession, or in any county, district or place in which the party guilty of the principal felony or misdemeanor may by law be tried, in the same manner as such receiver may be dealt with, indicted, tried and punished in the county, district or place where he actually received such property.

Receivers of property where the original offence is punishable on summary conviction.

106. Where the stealing or taking of any property whatsoever is by this Act punishable on summary conviction, either for every offence, or for the first and second offence only, or for the first offence only, any person who receives any such property, knowing the same to be unlawfully come by, shall, on conviction thereof before a Justice of the Peace, be liable, for every first, second or subsequent offence of receiving, to the same forfeiture and punishment to which a person guilty of a first, second or subsequent offence of stealing or taking such property is by this Act made liable.

Principals in the second degree and accessories how punishable.

107. In the case of every felony punishable under this Act, every principal in the second degree and every accessory before the fact, shall be punishable in the same manner as the principal in the first degree is punishable, and every accessory after the fact to any felony punishable under this Act (except only a receiver of stolen property), shall be liable to be imprisoned for any term less than two years, with or without hard labour, and with or without solitary confinement; and every person aiding, abetting, counselling, or procuring the commission of any misdemeanor punishable under this Act, shall be liable to be indicted and punished as a principal offender.

Abettors in misdemeanors.

Abettors in offences punishable on summary conviction.

108. Whosoever aids, abets, counsels or procures the commission of any offence, which is by this Act punishable on summary conviction either for every time of its commission or for the first and second time only, or for the first time only, shall, on conviction before a Justice of the Peace, be liable, for every first, second or subsequent offence of aiding, abetting, counselling, or procuring, to the same forfeiture and punishment to which a person guilty of a first, second or subsequent offence, as a principal offender is made liable.

109.

Regulations to be conformed to by dealers in in marine stores.

109. Every person dealing in the purchase of old marine stores of any description, including anchors, cables, sails, junk, iron, copper, brass, lead, and other marine stores, shall conform to the following regulations:

Not to purchase from certain persons.

First,—He shall not by himself or his agent, purchase any old marine stores from any person under the age of sixteen years, and on conviction of any such offence before a Justice of the Peace, shall be liable to a penalty of four dollars for the first offence, and of six dollars for every subsequent offence.

Punishment for secreting stolen marine stores.

Secondly,—He shall not purchase or receive into his stores, premises or places of deposit, any old marine stores, except in the day time, between sunrise and sunset, under a penalty of five dollars for the first offence, and of seven dollars for every subsequent one; and if any old marine stores which had been stolen are found secreted in the premises of any person purporting to be a dealer in such stores, such person shall be guilty of a misdemeanor, and shall be punishable therefor in any manner by law prescribed for misdemeanor.

As to offences not otherwise provided for.

Punishment for any act by which a person is defrauded of the advantage, possession, or use of his property.

110. Whosoever unlawfully and with intent to defraud, by taking, by embezzlement, by obtaining by false pretences, or in any other manner whatever, appropriates to his own use or to the use of any other person, any property whatsoever, real or personal, in possession or in action, so as to deprive any other person temporarily, or absolutely of the advantage, use or enjoyment of any beneficial interest in such property in law or in equity, which such other person may have therein, is guilty of a misdemeanor punishable in like manner as simple larceny; and if the value of such property exceeds two hundred dollars, then such misdemeanor shall be punishable by imprisonment in the penitentiary for any term not exceeding fourteen years, or in any manner in which simple larceny is punishable; and

Conviction may be under this section on indictment for larceny, &c.

if on the trial of any person for larceny, for embezzlement, or for obtaining by false pretences, the jury are of opinion that such person is not guilty of the offence charged in the indictment, but are of opinion that he is guilty of an offence against this section, they may find him so guilty, and he shall be liable to be punished as herein provided, as if he had been convicted on an indictment under this section; and in any case in which any person is convicted of an offence against this Act by stealing, embezzling or obtaining by false pretences any property whatever, then if the value of the property be over two hundred dollars the offender shall

Additional punishment when the property stolen, &c, is over $200 in value.

shall be liable to be punished by imprisonment in the penitentiary for a term not exceeding seven years, in addition to any punishment to which he would be otherwise liable for such offence.

Appropriating timber found adrift, altering or effacing marks, &c., or refusing to deliver it to the owner.

111. Whosoever wilfully and unlawfully conceals or appropriates any timber, mast, spars, saw-logs, or other description of lumber, which having been adrift in any river or lake, is found so adrift, in any such river or lake, or cast ashore on the bank or beach of any such river or lake, or wilfully and unlawfully defaces or adds any mark or number, on any such article or thing, or makes any false or counterfeit mark thereon, or refuses to deliver up to the proper owner thereof or to the person in charge thereof on behalf of such owner, any such article or thing, is guilty of a misdemeanor punishable in like manner as simple larceny.

Bringing into Canada property stolen, embezzled, or unlawfully obtained elsewhere.

112. If any person brings into Canada, or has in his possession therein, any property stolen, embezzled, converted or obtained by fraud or false pretences in any other country in such manner that the stealing, embezzling, converting or obtaining it in like manner in Canada, would, by the laws of Canada, be a felony or misdemeanor; then the bringing such property into Canada, or the having it in possession therein, knowing it to have been so stolen, embezzled or converted, or unlawfully obtained, shall be an offence of the same nature, and punishable in like manner as if the stealing, embezzling, converting or unlawfully obtaining such property had taken place in Canada, and such person may be tried and convicted in any district, county or place in Canada, into or in which he brings such property, or has it in possession.

As to restitution or recovery of stolen property.

The owner of stolen property prosecuting the thief or receiver to conviction shall have restitution of his property.

113. If any person, guilty of any such felony or misdemeanor as is mentioned in this Act, in stealing, taking, obtaining, extorting, embezzling, appropriating, converting or disposing of, or in knowingly receiving any chattel, money, valuable security, or other property whatsoever, is indicted for such offence, by or on behalf of the owner of the property, or his executor or administrator, and convicted thereof, in such case the property shall be restored to the owner or his representative; and in every case in this section aforesaid the court before whom any person is tried for any such felony or misdemeanor shall have power to award, from time to time, writs of restitution for the said property or to order the restitution thereof in a summary manner; and the court may also, if it see fit, award restitution of the property taken

Restitution in other cases.

taken from the prosecutor, or any witness for the prosecution, by such felony or misdemeanor, although the person indicted is not convicted thereof, if the jury declare (as they may do) that such property belongs to such prosecutor or witness, and that he was unlawfully deprived of it by such felony or misdemeanor: Provided that if it appears before any award or order made, that any valuable security has been *bonâ fide* paid or discharged by some person or body corporate liable to the payment thereof, or being a negotiable instrument, has been *bonâ fide* taken or received by transfer or delivery, by some person or body corporate, for a just and valuable consideration, without any notice or without any reasonable cause to suspect that the same had by any felony or misdemeanor been stolen, taken, obtained, extorted, embezzled, converted or disposed of,—in such case the court shall not award or order the restitution of such security: Provided also, that nothing in this section contained shall apply to the case of any prosecution of any trustee, banker, merchant, attorney, factor, broker or other agent intrusted with the possession of goods or documents of title to goods, for any misdemeanor against this Act.

Provision as to valuable and negotiable securities.

Not to apply to prosecutions of trustees, bankers, &c.

Restitution in certain cases out of money taken from the prisoner.

114. When any prisoner has been convicted, either summarily or otherwise, of any larceny or other offence, including the stealing or unlawfully obtaining any property, and it appears to the court, by the evidence, that the prisoner sold such property or part of it to any person who had no knowledge that it was stolen or unlawfully obtained, and that money has been taken from the prisoner on his apprehension, the court may, on the application of such purchaser and on restitution of the property to its owner, order that out of the money so taken from the prisoner, a sum not exceeding the amount of the proceeds of the sale be delivered to such purchaser.

Taking a reward for helping to the recovery of stolen property without bringing the offender to trial.

115. Whosoever corruptly takes any money or reward, directly or indirectly, under pretence, or upon account of helping any person to any chattel, money, valuable security or other property whatsoever, which by any felony or misdemeanor has been stolen, taken, obtained, extorted, embezzled, converted or disposed of, as in this Act before mentioned, (unless he has used all due diligence to cause the offender to be brought to trial for the same) is guilty of felony, and shall be liable to be imprisoned in the penitentiary for any term not exceeding seven years and not less than two years, or to be imprisoned in any other gaol or place of confinement for any term less than two years, with or without hard labour and with or without solitary confinement.

116.

Advertising a reward for the return of stolen property, &c.

116. Whosoever publicly advertises a reward for the return of any property whatsoever, which has been stolen or lost, and in such advertisement uses any words purporting that no questions will be asked, or makes use of any words in any public advertisement purporting that a reward will be given or paid for any property which has been stolen or lost, without seizing or making any inquiry after the person producing such property, or promises or offers in any such public advertisement to return to any pawn-broker or other person who may have bought or advanced money by way of loan on any property stolen or lost, the money so paid or advanced, or any other sum of money for the return of such property, or prints or publishes any such advertisement, shall forfeit the sum of two hundred and fifty dollars for any such offence to any person who will sue for the same by action of debt, to be recovered with full costs of suit.

As to apprehension of offenders and other proceedings.

Apprehension without a warrant.

117. Any person found committing any offence punishable either upon indictment or upon summary conviction, by virtue of this Act, may be immediately apprehended without a warrant by any person, and forthwith taken, together with the property, if any, on or with respect to which the offence is committed, before some neighboring Justice of the Peace to be dealt with according to law; and if any credible witness proves upon oath before a Justice of the Peace a reasonable cause to suspect that any person has in his possession or on his premises any property whatsoever on or with respect to which any offence, punishable either upon indictment or upon summary conviction by virtue of this Act, has been committed, the justice may grant a warrant to search for such property as in the case of stolen goods; and any person to whom any property is offered to be sold, pawned or delivered, if he has reasonable cause to suspect that any such offence has been committed on or with respect to such property, is hereby authorized, and if in his power, is required to apprehend and forthwith to take before a Justice of the Peace the party offering the same, together with such property, to be dealt with according to law.

Justice may grant a search warrant.

Person to whom stolen property is offered, may arrest party offering it.

If a person summarily convicted does not pay his fine, &c., the Justice commit him.

118. In every case of a summary conviction under this Act, where the sum forfeited for the value of the property stolen or taken, or for the amount of injury done, or imposed as a penalty by the justice, is not paid, either immediately after the conviction or within such period as the justice shall, at the time of the conviction appoint, the convicting justice (unless where otherwise specially directed) may commit

Scale of imprisonment.

commit the offender to the common gaol or house of correction, there to be imprisoned only, or to imprisoned and kept to hard labour, according to the discretion of the justice, for any term not exceeding two months where the amount of the sum forfeited or of the penalty imposed, or of both (as the case may be), together with the costs, does not exceed twenty-five dollars, and for any term not exceeding three months where the amount, with costs, exceeds twenty-five dollars; the commitment to be determinable in each of the cases aforesaid upon payment of the amount and costs.

Justice may discharge the offender in certain cases.

119. Where any person is summarily convicted before a Justice of the Peace, of any offence against this Act, and it is a first conviction, the justice may, if he so thinks fit, discharge the offender from his conviction, upon his making such satisfaction to the party aggrieved, for damages and costs, or either of them, as shall be ascertained by the justice.

A summary conviction shall be a bar to any other proceeding for the same cause.

120. In case any person convicted of any offence punishable upon summary conviction, by virtue of this Act, has paid the sum adjudged to be paid, together with costs, under such conviction, or has received a remission thereof from the Crown, or has suffered the imprisonment awarded for non-payment thereof, or the imprisonment adjudged in the first instance, or has been so discharged from his first conviction by any justice as aforesaid, in every such case he shall be released from all further or other proceedings for the same cause.

As to other matters.

Stealers of property in one part of the Dominion, &c., may be tried and punished in that part where they have the property.

121. If any person has in his possession in any one part of Canada, any chattel, money, valuable security or other property whatsoever, which he has stolen or otherwise feloniously or unlawfully taken or obtained, by any offence against this Act, in any other part of Canada he may be dealt with, indicted, tried and punished for larceny or theft in that part of Canada where he so has such property, in the same manner as if he had actually stolen, or taken or obtained it in that part; and if any person in any one part of Canada receives or has any chattel, money, valuable security or other property whatsoever which has been stolen or otherwise feloniously or unlawfully taken or obtained in any other part of Canada, such person knowing such property to have been stolen or otherwise feloniously or unlawfully taken or obtained, he may be dealt with, indicted, tried and punished for such offence in that part of Canada where he so receives or has such property, in the same manner as if it had been originally stolen or taken or obtained in that part.

122.

Fine and sureties for keeping the peace in certain cases.

122. Whenever any person is convicted of any indictable misdemeanor punishable under this Act, the court may, if it thinks fit, in addition to, or in lieu of any of the punishments by this Act authorized, fine the offender, and require him to enter into his own recognizances and to find sureties, both or either, for keeping the peace and being of good behaviour; and in case of any felony punishable under this Act, the court may, if it thinks fit, require the offender to enter into his own recognizances, and to find sureties, both or either, for keeping the peace, in addition to any punishment by this Act authorized: Provided that no person shall, under this section, be imprisoned for any period exceeding one year for not finding sureties. Proviso.

Summary proceedings.

123. Every offence hereby made punishable on summary conviction may be prosecuted in the manner directed by the Act of the present Session, intituled: "*An Act respecting the duties of Justices of the Peace out of Sessions, in relation to Summary Convictions and orders*," so far as no other provision is hereby made for any matter or thing which may be required to be done in the cause of such prosecution; and all provisions contained in the said Act shall be applicable to such prosecution in the same manner as if they were incorporated in this Act. Act of this Session, c. 31.

Commencement of Act.

124. This Act shall commence and take effect on the first day of January, one thousand eight hundred and seventy.

CHAP. 22.

An Act respecting Malicious Injuries to Property.

[*Assented to 22nd June*, 1869.]

Preamble.

WHEREAS it is expedient to assimilate, amend and consolidate the Statute Law of the several Provinces of Quebec, Ontario, Nova Scotia and New Brunswick, relating to Malicious Injuries to Property, and to extend the same as so consolidated to all Canada: Therefore, Her Majesty, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows:—

Injuries by fire to buildings and goods therein.

Setting fire to a church, chapel, &c.

1. Whosoever unlawfully and maliciously sets fire to any church, chapel, meeting-house, or other place of divine worship, is guilty of felony, and shall be liable to be imprisoned in the penitentiary for life or for any term not less than two years, or to be imprisoned in any other gaol or

or place of confinement for any term less than two years, with or without hard labour, and with or without solitary confinement.

Setting fire to a dwelling-house, any person being therein.

2. Whosoever unlawfully and maliciously sets fire to any dwelling-house, any person being therein, is guilty of felony, and shall be liable to be imprisoned in the penitentiary for life or for any term not less than two years, or to be imprisoned in any other gaol or place of confinement for any term less than two years, with or without hard labour, and with or without solitary confinement.

Setting fire to a house, out-house, manufactory, farm building, &c.

3. Whosoever unlawfully and maliciously sets fire to any house, stable, coach-house, out-house, warehouse, office, shop, mill, malt-house, hop-oast, barn, storehouse, granary, hovel, shed or fold, or to any farm building, or to any building or erection used in farming land, or in carrying on any trade or manufacture, or any branch thereof, whether the same is then in the possession of the offender, or in the possession of any other person, with the intent thereby to injure or defraud any person, is guilty of felony, and shall be liable to be imprisoned in the penitentiary for life, or for any term not less than two years, or to be imprisoned in any other gaol or place of confinement for any term *not** less than two years, with or without hard labour, and with or without solitary confinement.

Setting fire to any railway station, or to any building belonging to any railway, canal, port, dock, &c.

4. Whosoever unlawfully and maliciously sets fire to any station, engine-house, warehouse, or other building, belonging or appertaining to any railway, port, dock, or harbour, or to any canal or other navigation, is guilty of felony, and shall be liable to be imprisoned in the penitentiary for life, or for any term not less than two years, or to be imprisoned in any other gaol or place of confinement for any term less than two years, with or without hard labour, and with or without solitary confinement.

Setting fire to any of Her Majesty's dock-yards, ships, &c.

5. Whosoever unlawfully and maliciously sets on fire or burns, or otherwise destroys or causes to be set on fire or burnt, or otherwise destroyed, or aids, procures, abets or assists, in the setting on fire or burning, or otherwise destroying, of any of Her Majesty's ships or vessels of war, whether afloat or building, or begun to be built in any of Her Majesty's dock-yards, or building or repairing by contract in any private yard for the use of Her Majesty, or any of Her Majesty's arsenals, magazines, dock-yards, rope-yards, victualling offices, or any of the buildings erected therein or belonging thereto, or any timber or material there placed, for building, repairing or fitting out of ships or vessels, or any of Her Majesty's military, naval, or victualling stores, or other

* Error. See 35 V. c. 34.

other ammunition of war, or any place or places where any such military, naval, or victualling stores, or other ammunition of war are kept, placed or deposited, is guilty of felony, and shall be liable to be imprisoned in the penitentiary for life, or for any term not less than two years, or to be imprisoned in any other gaol or place of confinement for any term less than two years, with or without hard labour, and with or without solitary confinement.

Setting fire to any public building.

6. Whosoever unlawfully and maliciously sets fire to any building, other than such as are in this Act before mentioned, belonging to the Queen or to any county, riding, division, city, town, village, parish, or place, or belonging to any university or college or hall of any university, or to any corporation, or to any unincorporated body or society of persons, associated together for any lawful purpose, or devoted or dedicated to public use or ornament, or erected or maintained by public subscription or contribution, is guilty of felony, and shall be liable to be imprisoned in the penitentiary for life, or for any term not less than two years, or to be imprisoned in any other gaol or place of confinement for any term less than two years, with or without hard labour, and with or without solitary confinement.

Setting fire to other buildings.

7. Whosoever unlawfully and maliciously sets fire to any building other than such as are in this Act before mentioned, is guilty of felony, and shall be liable to be imprisoned in the penitentiary for any term not exceeding fourteen years, and not less than two years, or to be imprisoned in any other gaol or place of confinement for any term less than two years, with or without hard labour, and with or without solitary confinement.

Setting fire to goods in any building, the setting fire to which is felony.

8. Whosoever unlawfully and maliciously sets fire to any matter or thing, being in, against or under any building, under such circumstances that if the building were thereby set fire to, the offence would amount to felony, is guilty of felony, and shall be liable to be imprisoned in the penitentiary for any term not exceeding fourteen years and not less than two years, or to be imprisoned in any other gaol or place of confinement for any term less than two years, with or without hard labour, and with or without solitary confinement.

Setting fire by negligence to any forest, tree, lumber, &c.

9. Whosoever by such negligence as shall show him to be reckless or wantonly regardless of consequences, or in contravention of a municipal law of the locality, sets fire to any forest, tree, manufactured lumber, square timber, logs or floats, boom, dam or slide on the Crown domain or land leased

leased or lawfully held for the purpose of cutting timber, or on private property, on any creek or river, or rollway, beach or wharf, so that the same be injured or destroyed, is guilty of a misdemeanor, and shall be liable to imprisonment in any gaol or place of confinement for any term not longer than two years, with or without hard labour.

In cases not serious, magistrate may impose a fine, without committal for trial.

10 When in the opinion of the magistrate investigating the charge under the preceding section the consequences have not been serious, he may in his discretion dispose of the matter summarily without sending the offender for trial, by imposing such a fine, not exceeding fifty dollars, as he may deem right to impose; or in default of payment, by committal to gaol for any period not exceeding six months, or until the fine be paid, and with or without hard labour.

Setting fire maliciously to any forest, tree, lumber, &c.

11. Whosoever unlawfully and maliciously sets fire to any forest, tree, manufactured lumber, square timber, logs or floats, boom, dam or slide on the Crown domain, or on land leased or lawfully held for the purpose of cutting timber, or on private property or on any creek, or river, or rollway, beach or wharf, so that the same be injured or destroyed, is guilty of felony, and shall be liable to be imprisoned in the penitentiary for any term not exceeding fourteen years and not less than two years, or to be imprisoned in any other gaol or place of confinement for any term less than two years, with or without hard labour, and with or without solitary confinement.

Attempting to set fire to buildings.

12. Whosoever unlawfully and maliciously, by any overt act, attempts to set fire to any building, or any matter or thing in the last preceding section mentioned, under such circumstances that if the same were thereby set fire to the offender would be guilty of felony, is guilty of felony, and shall be liable to be imprisoned in the penitentiary for any term not exceeding fourteen years and not less than two years, or to be imprisoned in any other gaol or place of confinement for any term less than two years, with or without hard labour, and with or without solitary confinement.

Injuries by explosive substances to buildings and goods therein.

Destroying, &c., a house with gunpowder, &c., any person being therein.

13. Whosoever unlawfully and maliciously, by the explosion of gunpowder, or other explosive substance, destroys, throws down or damages the whole or any part of any dwelling-house, any person being therein, or of any building, whereby the life of any person is endangered, is guilty of felony, and shall be liable to be imprisoned in the penitentiary for life or for any term not less than two years, or to be imprisoned in any other gaol or place of confinement for

for any term less than two years, with or without hard labour, and with or without solitary confinement.

Attempting to destroy buildings with gunpowder, &c.

14. Whosoever unlawfully and maliciously places or throws in, into, upon, under, against or near any building any gunpowder or other explosive substance with intent to destroy or damage any building, or any engine, machinery, working tools, fixtures, goods or chattels, whether or not any explosion takes place, and whether or not any damage is caused, is guilty of felony, and shall be liable to be imprisoned in the penitentiary for any term not exceeding fourteen years and not less than two years, or to be imprisoned in any other gaol or place of confinement for any term not exceeding two years, with or without hard labour, and with or without solitary confinement.

Injuries to buildings by rioters, &c.

Rioters demolishing church, building, &c.

15. If any persons riotously and tumultuously assembled together to the disturbance of the public peace unlawfully and with force demolish or pull down or destroy, or begin to demolish, pull down or destroy, any church, chapel, meeting-house or other place of divine worship, or any house, stable, coach-house, out-house, warehouse, office, shop, mill, malt-house, hop-oast, barn, granary, shed, hovel, or fold, or any building or erection used in farming land, or in carrying on any trade or manufacture or any branch thereof, or any building other than such as are in this section before mentioned, belonging to Her Majesty, or to any county, riding, city, town, village, parish or place, or to any university or college or hall of any university, or to any corporation, or to any unincorporated body or society or persons associated for any lawful purpose, or devoted or dedicated to public use or ornament, or erected or maintained by public subscription or contribution, or any machinery, whether fixed or movable, prepared for or employed in any manufacture or in any branch thereof, or any steam engine or other engine for sinking, working, ventilating or draining any mine, or any staith, building or erection used in conducting the business of any mine, or any bridge, waggon-way or trunk for conveying minerals from any mine, every such offender is guilty of felony, and shall be liable to be imprisoned in the penitentiary for life or for any term not less than two years, or to be imprisoned in any other gaol or place of confinement for any term less than two years, with or without hard labour, and with or without solitary confinement.

Rioters injuring buildings;

16. If any persons riotously and tumultuously assembled together to the disturbance of the public peace, unlawfully and

machinery, &c.

and with force, injure or damage any such church, chapel, meeting-house, place of divine worship, house, stable, coach-house, outhouse, warehouse, office, shop, mill, malt-house, hop-oast, barn, granary, shed, hovel, fold, building, erection, machinery, engine, staith, bridge, waggon-way, or trunk, as in the last preceding section mentioned, every such offender is guilty of a misdemeanor, and shall be liable to be imprisoned in the penitentiary for any term not exceeding seven years, and not less than two years, or to be imprisoned in any other gaol or place of confinement for any term less than two years, with or without hard labour

Proviso.

Provided that if upon the trial of any person for any felony in the last preceding section mentioned the jury are not satisfied that such person is guilty thereof, but are satisfied that he is guilty of any offence in this section mentioned, then the jury may find him guilty thereof, and he may be punished accordingly.

Injuries to buildings by tenants.

Tenants of houses, &c., maliciously injuring them.

17. Whosoever, being possessed of any dwelling-house or other building, or part of any dwelling-house or other building, held for any term of years or other less term, or at will, or held over after the termination of any tenancy, unlawfully and maliciously pulls down or demolishes, or unlawfully and maliciously begins to pull down or demolish the same or any part thereof, or unlawfully or maliciously pulls down or severs from the freehold any fixture being fixed in or to such dwelling-house or building, or part of such dwelling-house or building, is guilty of a misdemeanor.

Injuries to manufactures, machinery, &c.

Destroying goods in process of manufacture, or certain machinery, &c.

18. Whosoever unlawfully and maliciously cuts, breaks or destroys or damages with intent to destroy or to render useless any goods or article of silk, woollen, linen, cotton, hair, mohair, or alpaca, or of any one or more of those materials mixed with each other or mixed with any other material, or any framework-knitted piece, stocking, hose, or lace being in the loom or frame, or on any machine or engine, or on the rack or tenters, or in any stage, process or progress of manufacture, or unlawfully and maliciously cuts, breaks, or destroys or damages with intent to destroy or render useless any warp or shute of silk, woollen, linen, cotton, hair, mohair, or alpaca, or of any one or more of those materials mixed with each other or mixed with any other material, or unlawfully and maliciously cuts, breaks, or destroys or damages with intent to destroy or render useless, any loom, frame, machine, engine, rack, tackle, tool or implement, whether fixed or movable, prepared for or employed in carding,

carding, spinning, throwing, weaving, fulling, shearing, or otherwise manufacturing or preparing any such goods or articles, or by force enters into any house, shop, building or place with intent to commit any of the offences in this section mentioned, is guilty of felony, and shall be liable to be imprisoned in the penitentiary for life or for any term not less than two years, or to be imprisoned in any other gaol or place of confinement for any term less than two years, with or without hard labour, and with or without solitary confinement.

Destroying machines in other manufactures, thrashing machines, &c.

19. Whosoever unlawfully and maliciously cuts, breaks or destroys, or damages with intent to destroy or render useless, any machine or engine, whether fixed or movable, used or intended to be used for sowing, reaping, mowing, thrashing, ploughing or draining, or for performing any other agricultural operation, or any machine or engine, or any tool or implement, whether fixed or movable, prepared for or employed in any manufacture whatsoever (except the manufacture of silk, woollen, linen, cotton, hair, mohair or alpaca goods, or goods of any one or more of those materials mixed with each other or mixed with any other material, or any framework-knitted piece, stocking, hose or lace), is guilty of felony, and shall be liable to be imprisoned in the penitentiary for any term not exceeding seven years, and not less than two years, or to be imprisoned in any other gaol or place of confinement for any term less than two years, with or without hard labour, and with or without solitary confinement.

Injury to corn, trees and vegetable productions.

Setting fire to crops of hay, corn, &c.

20. Whosoever unlawfully and maliciously sets fire to any crop of hay, grass, corn, grain or pulse, or of any cultivated vegetable produce, whether standing or cut down, or to any part of any wood, coppice, or plantation of trees, or to any heath, gorse, furze or fern, wheresoever the same may be growing, is guilty of felony, and shall be liable to be imprisoned in the penitentiary for any term not exceeding fourteen years, and not less than two years, or to be imprisoned in any other gaol or place of confinement for any term less than two years, with or without hard labour, and with or without solitary confinement.

Setting fire to stacks of corn, &c.

21. Whosoever unlawfully and maliciously sets fire to any stack of corn, grain, pulse, tares, hay, straw, haulm or stubble, or of any cultivated vegetable produce, or of furze, gorse, heath, fern, turf, peat, coals, charcoal, wood, or bark, or to any steer or pile of wood or bark, is guilty of felony, and shall be liable to be imprisoned in the penitentiary for life,

life, or for any term not less than two years, or to be imprisoned in any other gaol or place of confinement for any term less than two years, with or without hard labour, and with or without solitary confinement.

Attempting to set fire to any crops or stacks of corn, hay, &c.

22. Whosoever unlawfully and maliciously, by any overt act, attempts to set fire to any such matter or thing, as in either of the last two preceding sections mentioned, under such circumstances that if the same were thereby set fire to, the offender would be, under either of such sections, guilty of felony, is guilty of felony, and shall be liable to be imprisoned in the penitentiary for any term not exceeding seven years, and not less than two years, or to be imprisoned in any other gaol or place of confinement for any term less than two years, with or without hard labour, and with or without solitary confinement.

Destroying hop-binds, grape-vines, &c.

23. Whosoever unlawfully and maliciously cuts or otherwise destroys any hop-binds growing on poles in any plantation of hops, or any grape-vines growing in any vineyard, is guilty of felony, and shall be liable to be imprisoned in the penitentiary for any term not exceeding fourteen years, and not less than two years, or to be imprisoned in any other gaol or place of confinement for any term less than two years, with or without hard labour, and with or without solitary confinement.

Destroying, &c., trees, &c, worth more than $5, growing in a pleasure ground, &c.

24. Whosoever unlawfully and maliciously cuts, breaks, barks, roots up or otherwise destroys or damages the whole or any part of any tree, sapling or shrub, or any underwood growing in any park, pleasure ground, garden, orchard or avenue, or in any ground adjoining or belonging to any dwelling house (in case the amount of the injury done exceeds the sum of five dollars) is guilty of felony, and shall be liable to be imprisoned in the penitentiary for any term not exceeding three years and not less than two years, or to be imprisoned in any other gaol or place of confinement for any term less than two years, with or without hard labour, and with or without solitary confinement.

Destroying, &c., trees, shrubs, &c., worth more than $20, growing elsewhere than in a pleasure ground, &c.

25. Whosoever unlawfully and maliciously cuts, breaks, barks, roots up, or otherwise destroys or damages the whole or any part of any tree, sapling or shrub, or any underwood growing in any public street or place or elsewhere than in any park, pleasure ground, garden, orchard or avenue, or in any ground adjoining or belonging to any dwelling-house (in case the amount of injury done exceeds the sum of twenty dollars), is guilty of felony, and shall be liable to be imprisoned in the penitentiary for any term not exceeding three years, and not less than two years, or to be imprisoned in

in any other gaol or place of confinement for any term less than two years, with or without hard labour, and with or without solitary confinement.

Damaging trees, &c., wheresoever growing to the amount of 25 cents.

26. Whosoever unlawfully and maliciously cuts, breaks, barks, roots up or otherwise destroys or damages the whole or any part of any tree, sapling or shrub, or any underwood, wheresoever the same may be growing, the injury done being to the amount of twenty-five cents at the least, shall, on conviction thereof before any Justice of the Peace, at the discretion of the justice, either be committed to the common gaol or house of correction, there to be imprisoned only, or to be imprisoned and kept to hard labour for any term not exceeding one month, or else shall forfeit and pay, over and above the amount of the injury done, such sum of money, not exceeding five dollars, as to the justice seems meet; and whosoever, having been convicted of any such offence, either against this or any former Act or law, afterwards commits any of the said offences in this section before mentioned, and is convicted thereof in like manner, shall, for such second offence, be liable to be committed to the common gaol or other place of confinement, there to be kept at hard labour, for such term, not exceeding three months, as the convicting justice thinks fit, or else shall forfeit and pay, over and above the amount of the injury done, such sum of money, not exceeding twenty dollars, as to the justice seems meet; and whosoever, having been twice convicted of any such offence (whether both or either of such convictions have taken place before or after the passing of this Act), afterwards commits any of the said offences in this section before mentioned, is guilty of a misdemeanor, and shall be liable to be imprisoned in any gaol or place of confinement other than a penitentiary, for any term less than two years, with or without hard labour, and with or without solitary confinement.

Second offence.

Third offence &c.

Destroying any fruit or vegetable production in a garden, &c.

27. Whosoever unlawfully and maliciously destroys, or damages with intent to destroy, any plant, root, fruit or vegetable production, growing in any garden, orchard, nursery ground, house, hot-house, green-house or conservatory, shall, on conviction thereof before a Justice of the Peace, at the discretion of the justice, either be committed to the common gaol or other place of confinement, there to be imprisoned only, or to be imprisoned and kept to hard labour, for any term not exceeding three months, or else shall forfeit and pay, over and above the amount of the injury done, such sum of money, not exceeding twenty dollars, as to the justice seems meet; and whosoever, having been convicted of any such offence, either against this or any former Act or law, afterwards commits any of the said offences in this section

Second offence.

tion before mentioned, is guilty of felony, and shall be liable to be imprisoned in the penitentiary for the term of two years, or to be imprisoned in any other gaol or place of confinement for any term less than two years, with or without hard labour, and with or without solitary confinement.

Destroying, &c., vegetable productions not growing in a garden, &c.

28. Whosoever unlawfully and maliciously destroys, or damages with intent to destroy, any cultivated root or plant used for the food of man or beast, or for medicine, or for distilling, or for dyeing, or for or in the course of any manufacture, and growing in any land, open or enclosed, not being a garden, orchard or nursery ground, shall, on conviction thereof before a Justice of the Peace, at the discretion of the justice, either be committed to the common gaol or other place of confinement, there to be imprisoned only, or to be imprisoned and kept to hard labour, for any term not exceeding one month, or else shall forfeit and pay, over and above the amount of the injury done, such sum of money, not exceeding five dollars, as to the justice seems meet; and in default of payment thereof, together with the costs (if ordered), shall be committed as aforesaid, for any term not exceeding one month, unless payment be sooner made; and whosoever, having been convicted of any such offence, either against this or any former Act or law, afterwards commits any of the said offences in this section before mentioned, and is convicted thereof in like manner, shall be committed to the common gaol or other place of confinement, there to be kept to hard labour, for such term, not exceeding three months, as the convicting justice thinks fit

Second offence.

Injuries to fences.

Destroying, &c., any fence, gate, &c.

29. Whosoever unlawfully and maliciously cuts, breaks, throws down, or in anywise destroys any fence of any description whatsoever, or any wall, stile or gate, or any part thereof, respectively, shall, on conviction thereof before a Justice of the Peace, for the first offence forfeit and pay, over and above the amount of the injury done, such sum of money, not exceeding five dollars, as to the justice seems meet; and whosoever, having been convicted of any such offence, either against this or any former Act or law, afterwards commits any of the said offences in this section before mentioned, and is convicted thereof in like manner, shall be committed to the common gaol or other place of confinement, there to be kept to hard labour for such term, not exceeding three months, as the convicting justice thinks fit

Second offence.

Injuries

Injuries to mines.

Setting fire to a coal-mine, oil well, &c.

30. Whosoever unlawfully and maliciously sets fire to any mine of coal, cannel coal, anthracite, or other mineral fuel, or to any mine or well of oil or other combustible substance, is guilty of felony, and shall be liable to be imprisoned in the penitentiary for life, or for any term not less than two years, or to be imprisoned in any other gaol or place of confinement for any term less than two years, with or without hard labour, and with or without solitary confinement.

Attempting to set fire to a mine, oil-well, &c.

31. Whosoever unlawfully and maliciously by any overt act, attempts to set fire to any mine, or to any such oil well, as aforesaid, under such circumstances that if the same were thereby set fire to the offender would be guilty of felony, is guilty of felony, and shall be liable to be imprisoned in the penitentiary for any term not exceeding fourteen years and not less than two years, or to be imprisoned in any other gaol or place of confinement for any term less than two years with or without hard labour, and with or without solitary confinement.

Conveying water, earth, rubbish, &c., into a mine, obstructing the shaft, &c.

32. Whosoever unlawfully and maliciously causes any water, earth, rubbish or other substance, to be conveyed or run or fall into any mine, or into any oil well, or into any subterraneous passage communicating therewith, with intent thereby to destroy or damage such mine or well, or to hinder or delay the working thereof, or, with the like intent unlawfully and maliciously pulls down, fills up, or obstructs or damages with intent to destroy, obstruct, or render useless, any airway, waterway, drain, pit, level or shaft, of or belonging to any mine or well, is guilty of felony, and shall be liable to be imprisoned in the penitentiary for any term not exceeding seven years and not less than two years, or to be imprisoned in any other gaol or place of confinement for any term less than two years, with or without hard labour, and with or without solitary confinement: Provided that this section shall not extend to any damage committed underground by any owner of any adjoining mine or well in working the same, or by any person duly employed in such working.

Proviso.

Damaging steam-engines, staiths, waggon ways, &c., for working mines.

33. Whosoever unlawfully and maliciously pulls down or destroys or damages with intent to destroy or render useless any steam engine or other engine for sinking, draining, ventilating or working, or for in anywise assisting in sinking, draining, ventilating or working any mine or well, or any appliance or apparatus in connection with any such steam or

or other engine, or any staith, building or erection used in conducting the business of any mine or well, or any bridge, waggon-way or trunk for conveying, minerals or oil from any mine or well, whether such engine, staith, building, erection, bridge, waggon-way or trunk be completed or in an unfinished state, or unlawfully and maliciously stops, obstructs or hinders the working of any such steam or other engine, or of any such appliance or apparatus as aforesaid, with intent thereby to destroy or damage any mine or well, or to hinder, obstruct or delay the working thereof, or unlawfully and maliciously wholly or partly cuts through, severs, breaks, or unfastens, or damages with intent to destroy or render useless any rope, chain or tackle, of whatsoever material the same shall be made, used in any mine or well, or in or upon any inclined plane, railway or other way, or other work whatsoever, in anywise belonging or appertaining to or connected with or employed in any mine or well, or the working or business thereof, is guilty of felony, and shall be liable to be imprisoned in the penitentiary for any term not exceeding seven years and not less than two years, or to be imprisoned in any other gaol or place of confinement for any term less than two years, with or without hard labour, and with or without solitary confinement.

Injuries to sea and river banks, and to works on rivers, canals, &c.

Destroying any sea bank or wall on any canal, dam, &c., used for hydraulic purposes, &c.

34. Whosoever unlawfully and maliciously breaks down or cuts down, or otherwise damages or destroys any sea bank, sea wall, dyke or aboiteau, or the bank, dam, or wall of or belonging to any river, canal, drain, reservoir, pool or marsh, whereby any land or building is or is in danger of being overflowed or damaged, or unlawfully and maliciously throws, breaks or cuts down, levels, undermines, or otherwise destroys any quay, wharf, jetty, lock, sluice, floodgate, weir, tunnel, towing-path, drain, water-course, or other work belonging to any port, harbour, dock, or reservoir, or on or belonging to any navigable river or canal, or any dam or structure erected to create or utilize any hydraulic power, or any embankment for the support thereof, is guilty of felony, and shall be liable to be imprisoned in the penitentiary for life or for any term not less than two years, or to be imprisoned in any other gaol or place of confinement for any term less than two years, with or without hard labour, and with or without solitary confinement.

Removing piles of any sea bank, &c., or obstructing

35. Whosoever unlawfully and maliciously cuts off, draws up, or removes any piles, stone or other materials fixed in the ground and used for securing any sea bank or sea wall, or

or the bank, dam or wall of any river, canal, drain, aqueduct, marsh, reservoir, pool, port, harbour, dock, quay, wharf, jetty or lock, or unlawfully and maliciously opens or draws up any floodgate or sluice, or does any other injury or mischief to any navigable river or canal, with intent and so as thereby to obstruct or prevent the carrying on, completing or maintaining the navigation thereof, is guilty of felony, and shall be liable to be imprisoned in the penitentiary for any term not exceeding seven years and not less than two years, or to be imprisoned in any other gaol or place of confinement for any term less than two years, with or without hard labour, and with or without solitary confinement. navigation of a river or canal.

Injuries to ponds.

36. Whosoever unlawfully and maliciously cuts through, breaks down, or otherwise destroys the dam, floodgate or sluice of any fishpond, or of any water which is private property, or in which there is any private right of fishery, with intent thereby to take or destroy any of the fish in such pond or water, or so as thereby to cause the loss or destruction of any of the fish, or unlawfully and maliciously puts any lime or other noxious material in any such pond or water, with intent thereby to destroy any of the fish that may then be, or that may thereafter be put therein, or unlawfully and maliciously cuts through, breaks down, or otherwise destroys the dam or floodgate of any mill-pond, reservoir or pool, is guilty of a misdemeanor, and shall be liable to be imprisoned in the penitentiary for any term not exceeding seven years and not less than two years, or to be imprisoned in any other gaol or place of confinement for any term less than two years, with or without hard labour, and with or without solitary confinement. Breaking down the dam of a fishery, &c., or mill-dam, or poisoning fish.

Injuries to bridges, viaducts, and toll-bars.

37. Whosoever unlawfully and maliciously pulls or throws down, or in any wise destroys, any bridge, (whether over any stream of water or not), or any viaduct or aqueduct, over or under which bridge, viaduct or aqueduct any highway, railway, or canal passes, or does any injury with intent and so as thereby to render such bridge, viaduct or aqueduct, or the highway, railway or canal passing over or under the same, or any part thereof, dangerous or impassable, is guilty of felony, and shall be liable to be imprisoned in the penitentiary for life or for any term not less than two years, or to be imprisoned in any other gaol or place of confinement for any term less than two years, with or without hard labour, and with or without solitary confinement. Injuring a public bridge or viaduct.

38

Destroying a turnpike gate, toll house, &c.

38. Whosoever unlawfully and maliciously throws down, levels, or otherwise destroys, in whole or in part, any turnpike gate or toll-bar, or any wall, chain, rail, post, bar or other fence belonging to any turnpike gate or toll-bar, or set up or erected to prevent passengers passing by without paying any toll directed to be paid by any Act or law relating thereto, or any house, building or weighing engine erected for the better collection, ascertainment or security of any such toll, is guilty of a misdemeanor, and shall be liable to be punished by fine or imprisonment, or both in the discretion of the court.

Injuries to railway carriages and telegraphs.

Placing wood, &c., on railway, or removing rails, &c., with intent to obstruct or overthrow any engine, carriage, &c.

39. Whosoever unlawfully and maliciously puts, places, casts or throws upon or across any railway, any wood, stone, or other matter or thing, or unlawfully and maliciously takes up, removes or displaces any rail, sleeper, or other matter or thing belonging to any railway, or unlawfully and maliciously turns, moves or diverts any point or other machinery belonging to any railway, or unlawfully and maliciously makes or shows, hides or removes any signal or light upon or near to any railway, or unlawfully and maliciously does or causes to be done, any other matter or thing, with intent in any of the cases aforesaid, to obstruct, upset, overthrow, injure or destroy any engine, tender, carriage or truck using such railway, is guilty of felony, and shall be liable to be imprisoned in the penitentiary for life, or for any term not less than two years, or to be imprisoned in any other gaol or place of confinement for any term less than two years, with or without hard labour.

Obstructing engines or carriages on railways.

40. Whosoever, by any unlawful act, or by any wilful omission or neglect, obstructs, or causes to be obstructed, any engine or carriage using any railway, or aids or assists therein, is guilty of a misdemeanor, and shall be liable to be imprisoned in any gaol or place of confinement for any term less than two years, with or without hard labour.

Injuring electric or magnetic telegraphs.

41. Whosoever unlawfully and maliciously cuts, breaks, throws down, destroys, injures or removes, any battery, machinery, wire, cable, post, or other matter or thing whatsoever, being part of or being used or employed in or about any electric or magnetic telegraph, or in the working thereof, or unlawfully and maliciously prevents or obstructs in any manner whatsoever, the sending, conveyance or delivery of any communication by any such telegraph, is guilty of a misdemeanor, and shall be liable to be imprisoned in any gaol or place of confinement, other than a penitentiary, for any term less than two years, with or without

without hard labour, unless some greater punishment is provided for the offence by any other Act in force, in which case such offender may be indicted and punished under this Act.

Attempts to injure such telegraphs.

42. Whosoever unlawfully and maliciously, by any overt act, attempts to commit any of the offences in the last preceding section mentioned, shall, on conviction thereof before a Justice of the Peace, at the discretion of the justice, either be committed to the common gaol or any other place of confinement, there to be imprisoned only, or to be imprisoned and kept to hard labour, for any term not exceeding three months, or else shall forfeit and pay such sum of money not exceeding fifty dollars as to the justice seems meet.

Injuries to works of art, &c.

Destroying or damaging works of art in museums, churches, &c., or in public places.

43. Whosoever unlawfully and maliciously, destroys or damages any book, manuscript, picture, print, statue, bust or vase, or any other article or thing kept for the purposes of art, science or literature, or as an object of curiosity, in any museum, gallery, cabinet, library, or other depository, which museum, gallery, cabinet, library or other depository is either at all times or from time to time open for the admission of the public or of any considerable number of persons to view the same, either by the permission of the proprietor thereof, or by the payment of money before entering the same, or any picture, statue, monument or other memorial of the dead, painted glass, or other monument or work of art in any church, chapel, meeting-house or other place of divine worship, or in any building belonging to Her Majesty, or to any county, riding, city, town, village, parish or place, or to any university, or college or hall of any university, or in any street, square, church-yard, burial ground, public garden or ground, or any statue or monument exposed to public view, or any ornament, railing or fence surrounding such statue or monument, or any fountain, lamp, post, or other thing of metal, glass, wood or other material in any street, square, or other public place, is guilty of a misdemeanor, and shall be liable to be imprisoned in any gaol or place of confinement for any term not exceeding one year, with or without hard labour: Provided that nothing herein contained shall be deemed to affect the right of any person to recover, by action of law, damages for the injury so committed.

Civil remedy saved.

Injuries to cattle, and other animals.

Word "cattle" defined.

44. The word "cattle" wherever used in this Act shall have the meaning assigned to it in the "*Act respecting larceny and other similar offences*," passed in the present Session.

45.

Killing or maiming cattle.

45. Whosoever unlawfully and maliciously kills, maims, wounds, poisons or injures any cattle, is guilty of felony, and shall be liable to be imprisoned in the penitentiary for any term not exceeding fourteen years and not less than two years, or to be imprisoned in any other gaol or place of confinement, for any term less than two years, with or without hard labour and with or without solitary confinement.

Wantonly attempting to poison cattle, &c.

46. Whosoever unlawfully and maliciously attempts to kill, maim, wound, poison or injure any cattle, or unlawfully and maliciously places poison in such a position as to be easily partaken of by any cattle, is guilty of a misdemeanor, and shall be liable to be punished by fine or imprisonment, or both, at the discretion of the court.

Killing or maiming other animals.

47. Whosoever unlawfully and maliciously kills, maims, wounds, poisons or injures any dog, bird, beast, or other animal, not being cattle, but being either the subject of larceny at common law, or being ordinarily kept in a state of confinement, or kept for any domestic purpose, or purpose of lawful profit or advantage or science, shall, on conviction thereof before a Justice of the Peace, at the discretion of the justice, either be committed to the common gaol or any other place of confinement, there to be imprisoned only, or to be imprisoned and kept to hard labour, for any term not exceeding three months, or else shall forfeit and pay, over and above the amount of the injury done, such sum of money not exceeding one hundred dollars as to the justice seems meet; and whosoever, having been convicted of any such offence, afterwards commits any of the said offences in this section before mentioned, and is convicted thereof upon indictment, is guilty of a misdemeanor, and shall be liable to be punished by fine or imprisonment, or both, in the discretion of the court: Provided always that the prosecutor may, if he sees fit, proceed before a Justice of the Peace as for a first offence.

Second offence.

Proviso.

Injuries to ships.

Setting fire to, casting away or destroying a ship.

48. Whosoever unlawfully and maliciously sets fire to, casts away, or in anywise destroys any ship or vessel, whether the same be complete or in an unfinished state, is guilty of felony, and shall be liable to be imprisoned in the penitentiary for life or for any term not less than two years, or to be imprisoned in any other gaol or place of confinement, for any term less than two years, with or without hard labour, and with or without solitary confinement.

Setting fire to ships to prejudice the

49. Whosoever unlawfully and maliciously sets fire to, or casts away, or in anywise destroys any ship or vessel, with intent thereby to prejudice any owner or part owner of such ship

ship or vessel, or of any goods on board the same, or any person that has underwritten, or may underwrite any policy of insurance upon such ship or vessel, or on the freight thereof, or upon any goods on board the same, is guilty of felony, and shall be liable to be imprisoned in the penitentiary for life or for any term not less than two years, or to be imprisoned in any other gaol or place of confinement for any term less than two years, with or without hard labour, and with or without solitary confinement. owner or underwriters.

50. Whosoever unlawfully and maliciously, by any overt act, attempts to set fire to, cast away, or destroy any ship or vessel under such circumstances that if the ship or vessel were thereby set fire to, cast away or destroyed, the offender would be guilty of felony, is guilty of felony, and shall be liable to be imprisoned in the penitentiary for any term not exceeding fourteen and not less than two years, or to be imprisoned in any other gaol or place of confinement for any term less than two years, with or without hard labour, and with or without solitary confinement. Attempting to set fire to a vessel.

51. Whosoever unlawfully and maliciously places or throws in, into, upon, against or near any ship or vessel any gunpowder or other explosive substance, with intent to destroy or damage any ship or vessel, or any machinery, working-tools, goods, or chattels, whether or not any explosion takes place, and whether or not any injury is effected, is guilty of felony, and shall be liable to be imprisoned in the penitentiary for any term not exceeding fourteen and not less than two years,—or to be imprisoned in any other gaol or place of confinement for any term less than two years, with or without hard labour, and with or without solitary confinement. Placing gunpowder near a vessel with intent to damage it.

52. Whosoever unlawfully and maliciously damages, otherwise than by fire, gunpowder or other explosive substance, any ship or vessel, whether complete or in an unfinished state, with intent to destroy the same, or render the same useless, is guilty of felony, and shall be liable to be imprisoned in the penitentiary for any term not exceeding seven years and not less than two years; or to be imprisoned in any other gaol or place of confinement for any term less than two years, with or without hard labour, and with or without solitary confinement. Damaging ships otherwise than by fire.

53. Whosoever unlawfully masks, alters, or removes any light or signal, or unlawfully exhibits any false light or signal, with intent to bring any ship, vessel, or boat into danger, or unlawfully and maliciously does any thing tending Exhibiting false signals, &c., or doing acts of like nature for

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which no other punishment is provided.

ing to the immediate loss or destruction of any ship, vessel, or boat, and for which no punishment is hereinbefore provided, is guilty of felony, and shall be liable to be imprisoned in the penitentiary for life, or for any term not less than two years, or to be imprisoned in any other gaol or place of confinement for any term less than two years, with or without hard labour, and with or without solitary confinement.

Removing, defacing or concealing buoys and other sea marks.

54. Whosoever unlawfully and maliciously cuts away, casts adrift, removes, alters, defaces, sinks or destroys, or unlawfully and maliciously does any act with intent to cut away, cast adrift, remove, alter, deface, sink or destroy, or in any other manner unlawfully and maliciously injures or conceals any boat, buoy, buoy-rope, perch or mark used or intended for the guidance of seamen, or the purpose of navigation, is guilty of felony, and shall be liable to be imprisoned in the penitentiary for any term not exceeding seven years, and not less than two years, or to be imprisoned in any other gaol or place of confinement for any term less than two years, with or without hard labour, and with or without solitary confinement.

Penalty for making vessels fast to buoys, beacons, &c.

55. Whosoever makes fast any vessel or boat to any such buoy, beacon or sea mark, shall, on conviction thereof before any Justice of the Peace, forfeit a sum not exceeding ten dollars, and in default of payment, shall be liable to be imprisoned in any gaol or place of confinement for any term not exceding one month.

Cutting booms or rafts adrift.

56. Whosoever unlawfully and maliciously cuts or loosens any boom on any river, or other water, or breaks or cuts loose any raft or crib of timber or saw-logs, is guilty of a misdemeanor, and shall be liable to be punished by fine or imprisonment for not less than two years, or both, in the discretion of the court.

Destroying wrecks or any article belonging thereto.

57. Whosoever unlawfully and maliciously destroys any part of the ship or vessel in distress, or wrecked, stranded, or cast on shore, or any goods, merchandise, or articles of any kind belonging to such ship or vessel, is guilty of felony, and shall be liable to be imprisoned in the penitentiary for any term not exceeding fourteen years and not less than two years, or to be imprisoned in any other gaol or place of confinement for any term less than two years, with or without hard labour, and with or without solitary confinement.

Sending

Sending letters threatening to burn and destroy.

Sending letters threatening to burn or destroy houses, buildings, ships, agricultural produce, &c.

58. Whosoever sends, delivers or utters, or directly or indirectly causes to be received, knowing the contents thereof, any letter or writing threatening to burn or destroy any house, barn or other building, or any rick or stack of grain, hay or straw, or other agricultural produce, or any grain, hay or straw or other agricultural produce in or under any building, or any ship or vessel, or to kill, maim, wound, poison or injure any cattle, is guilty of felony, and shall be liable to be imprisoned in the penitentiary for any term not exceeding ten years and not less than two years, or to be imprisoned in any other gaol or place of confinement for any term less than two years, with or without hard labour, and with or without solitary confinement.

Injuries not before provided for.

Committing malicious injuries, not before provided for, exceeding the amount of $20.

59. Whosoever unlawfully and maliciously commits any damage, injury or spoil to or upon any real or personal property whatsoever, either of a public or of a private nature, for which no punishment is hereinbefore provided, the damage, injury or spoil being to an amount exceeding twenty dollars, is guilty of a misdemeanor, and shall be liable to be imprisoned in the penitentiary for any term not exceeding five years and not less than two years, or to be imprisoned in any other gaol or place of confinement for any term less than two years, with or without hard labour.

Committing damage, not previously provided for, and not exceeding $20.

60. Whosoever unlawfully or maliciously commits any damage, injury or spoil to or upon any real or personal property whatsoever, either of a public or private nature, for which no punishment is hereinbefore provided, shall on conviction thereof before a Justice of the Peace, forfeit and pay such sum of money not exceeding twenty dollars, as to the justice seems meet, and also such further sum of money as appears to the justice to be a reasonable compensation for the damage, injury, or spoil so committed not exceeding the sum of twenty dollars,—which last mentioned sum of money shall, in the case of private property, be paid to the party aggrieved; and in the case of property of a public nature, or wherein any public right is concerned, the money shall be applied in the same manner as every penalty imposed by a Justice of the Peace under this Act; and if such sums of money, together with the costs (if ordered), are not paid, either immediately after the conviction, or within such period as the justice shall at the time of the conviction appoint, the justice may commit the offender to the common gaol or other place of confinement, there to be imprisoned only, or to be imprisoned and kept to hard labour,

Application of money awarded.

bour, as the justice thinks fit, for any term not exceeding two months, unless such sum and costs be sooner paid: Provided that nothing herein contained shall extend to any case where the party acted under a fair and reasonable supposition that he had a right to do the act complained of, nor to any trespass, not being wilful and malicious, committed in hunting, fishing, or in the pursuit of game; but every such trespass shall be punishable in the same manner as if this Act had not been passed.

Not to extend to certain cases.

Section 60 to extend to trees.

61. The provisions in the last preceding section contained shall extend to any person who unlawfully or maliciously commits any injury to any tree, sapling, shrub, or underwood, for which no punishment is hereinbefore provided.

Making gunpowder to commit offences, and searching for the same.

Making or having gunpowder, &c., with intent to commit any felony against this Act.

62. Whosoever makes or manufactures, or knowingly has in his possession any gunpowder or other explosive substance, or any dangerous or noxious thing, or any machine, engine, instrument or thing, with intent thereby, or by means thereof to commit, or for the purpose of enabling any other person to commit any of the felonies in this Act mentioned, is guilty of a misdemeanor, and shall be liable to be imprisoned in any gaol or place of confinement, for any term less than two years, with or without hard labour, and with or without solitary confinement.

Justices may issue warrants for searching houses, &c., for such gunpowder, &c.

63. Any Justice of the Peace of any district, county or place, in which any machine, engine, implement or thing, or any gunpowder or other explosive, dangerous, or noxious substance is suspected to be made, kept or carried, for the purpose of being used for committing any of the felonies in this Act mentioned, upon reasonable cause assigned upon oath by any person, may issue a warrant, under his hand and seal, for searching in the day time, any house, mill, magazine, storehouse, warehouse, shop, cellar, yard, wharf, or other place, or any carriage, waggon, cart, ship, boat or vessel, in which the same is suspected to be made, kept or carried for such purpose as hereinbefore mentioned; and every person acting in the execution of any such warrant may seize any gunpowder, explosive substance, or any dangerous or noxious thing, or any machine, engine or instrument or thing which he has good cause to suspect is intended to be used in committing or enabling any other person to commit any offence against this Act, and with all convenient speed after the seizure shall remove the same to such proper place as he thinks fit, and detain the same until ordered, by

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a judge of one of Her Majesty's Superior Courts of criminal jurisdiction, to restore it to the person who may claim the same.

Searcher or seizer not to be liable to suit.

64. The searcher or seizer shall not be liable to any suit for such detainer, or for any loss of or damage which may happen to the property other than by the wilful act or neglect of himself or of the persons whom he intrusts with the keeping thereof.

In cases of conviction, how such articles shall be disposed of.

65. Any gunpowder, explosive substance or dangerous or noxious thing, or any machine, engine, instrument or thing intended to be used in committing or enabling any other person to commit any offence against this Act, and seized and taken possession of under the provisions hereof, shall, in the event of the person in whose possession the same may be found, or of the owner thereof being convicted for any offence under this act, be forfeited; and the same shall be sold under the direction of the court before which any such person is convicted, and the proceeds thereof shall belong to the Province in which the offender is convicted, and shall be paid to the chief financial officer thereof for the use of such Province.

Other matters.

Malice against owner unnecessary.

66. Every punishment and forfeiture by this act imposed on any person maliciously committing any offence, whether the same be punishable upon indictment or upon summary conviction, shall equally apply and be enforced, whether the offence be committed from malice conceived against the owner of the property in respect of which it shall be committed, or otherwise.

Act to apply to persons in possession of property injured.

67. Every provision of this act not hereinbefore so applied, shall apply to every person who, with intent to injure or defraud any person, does any of the acts hereinbefore made penal, although the offender be in possession of the property against or in respect of which such act is done.

Intent to injure particular persons need not be stated in indictment.

68. It shall be sufficient in any indictment for any offence against this act, where it is necessary to allege an intent to injure or defraud, to allege that the party accused did the act with intent to injure or defraud (as the case may be) without alleging an intent to injure or defraud any particular person; and on the trial of any such offence it shall not be necessary to prove an intent to injure any particular person, but it shall be sufficient to prove that the party accused did the act charged with an intent to injure or defraud, as the case may be.

Persons in act of committing offence may be apprehended.

69. Any person found committing any offence against this act, whether the same be punishable upon indictment or upon summary conviction, may be immediately apprehended, without a warrant, by any peace officer, or the owner of the property injured, or his servant, or any person authorized by him, and forthwith taken before some neighboring Justice of the Peace, to be dealt with according to law.

Abettors in offences punishable on summary conviction.

70. Whosoever aids, abets, counsels or procures the commission of any offence which is by this act punishable on summary conviction, either for every time of its commission, or for the first and second time only, or for the first time only, shall, on conviction before a Justice of the Peace, be liable for every first, second, or subsequent offence, of aiding, abetting, counselling or procuring, to the same forfeiture and punishment to which a person guilty of a first, second, or subsequent offence as a principal offender is by this act made liable.

If a person summarily convicted does not pay the fine imposed, &c., the Justice may commit him.

71. In every case of a summary conviction under this act, where the sum forfeited for the amount of the injury done, or imposed as a penalty by the justice, is not paid, either immediately after the conviction or within such period as the justice shall, at the time of the conviction, appoint, the convicting justice (unless where otherwise specially directed) may commit the offender to the common gaol or other place of confinement, there to be imprisoned only, or to be imprisoned and kept to hard labour, according to the discretion of the justice, for any term not exceeding two months, where the amount of the sum forfeited or of the penalty imposed, or of both (as the case may be), together with the costs, does not exceed twenty dollars; and for any term not exceeding three months when the amount, with costs, exceeds twenty dollars; the commitment to be determinable in each of the cases aforesaid upon payment of the amount and costs.

Justice may discharge offender in certain cases.

72. Where any person is summarily convicted before a Justice of the Peace of any offence against this Act, and it is a first conviction, the justice may, if he so thinks fit, discharge the offender from his conviction, upon his making such satisfaction to the party aggrieved, for damages and costs, or either of them, as shall be ascertained by the justice.

Summary conviction a bar to any other proceedings.

73. When any person convicted of any offence punishable upon summary conviction by virtue of this act, has paid the sum adjudged to be paid, together with costs, under such conviction, or has received a remission thereof from the

the Crown, or has suffered the imprisonment awarded for non-payment thereof, or the imprisonment awarded in the first instance, or has been so discharged from his conviction by any justice as aforesaid, he shall be released from all further or other proceedings for the same cause.

Fine and sureties for keeping the peace; in what cases.

74. Whenever any person is convicted of any indictable misdemeanor punishable under this Act, the court may, if it think fit, in addition to or in lieu of any of the punishments by this act authorized, fine the offender, and require him to enter into his own recognizances, and to find sureties, both or either, for keeping the peace and being of good behaviour; and in case of any felony punishable under this Act, the court may, if it thinks fit, require the offender to enter into his own recognizances, and to find sureties, both or either, for keeping the peace, in addition to any punishment by this Act authorized: Provided that no person shall be imprisoned under this section for not finding sureties, for any period exceeding one year.

Proviso.

Summary proceedings how regulated.

75. Every offence hereby made punishable on summary conviction may be prosecuted in the manner directed by the Act of this Session "*respecting the duties of Justices of the Peace out of Session in relation to summary convictions and orders*," so far as no provision is hereby made for any matter or thing which may be required to be done in the course of such prosecution.

Commencement of Act.

76. This Act shall commence and take effect on the first day of January, one thousand eight hundred and seventy.

CHAP. 23.

An Act respecting Perjury.

[*Assented to 22nd June*, 1869.]

Preamble.

WHEREAS it is expedient to assimilate, amend and consolidate the Statute Law relating to Perjury, in force in the several Provinces of Quebec, Ontario, Nova Scotia and New Brunswick, and to extend the same as so consolidated, to all Canada: Therefore, Her Majesty, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows:—

Perjury a misdemeanor:

1. Perjury or subornation of perjury is a misdemeanor; and any person guilty thereof shall be liable to be imprisoned in

and how punishable.

in the penitentiary for any term not exceeding fourteen years and not less than two years, or to be imprisoned in any other gaol or place of confinement, for any term less than two years, and to pay such fine as the court may award.

Making, &c., false oaths, declarations, &c., under any Act to be perjury.

2. In every case in which, by any Act or law now or hereafter to be in force in the Dominion of Canada, or in any Province forming part of the Dominion of Canada, it is required or authorized that facts, matters or things be verified, or otherwise assured or ascertained, by or upon the oath, affirmation, declaration or affidavit of some or any person, if any person having in any such case taken or made any oath, affirmation or declaration so required or authorized knowingly, wilfully and corruptly, upon such oath, affirmation or declaration, deposes, swears to or makes any false statement as to any such fact, matter or thing,—or if any person knowingly, wilfully and corruptly, upon oath or affirmation, affirms, declares, or deposes to the truth of any statement for so verifying, assuring or ascertaining any such fact, matter or thing, or purporting so to do,—or knowingly, wilfully and corruptly takes, makes, signs or subscribes any such affirmation, declaration or affidavit, as to any such fact, matter or thing, such statement, affidavit, affirmation or declaration being untrue, in the whole or any part thereof,—or knowingly, wilfully and corruptly omits from any such affidavit, affirmation or declaration, sworn or made under the provisions of any law, any matter which, by the provisions of such law, is required to be stated in such affidavit, affirmation or declaration,—such person shall be deemed to be guilty of wilful and corrupt perjury, and be punished accordingly: Provided that nothing herein contained shall affect any case amounting to perjury at the common law, or the case of any offence in respect of which other or special provision is made by any Act.

Proviso: as to perjury at common law.

Trial, punishment, &c., for making false affidavits, &c., to be used in Canada.

3. Any person who wilfully and corruptly makes any false affidavit, affirmation, or declaration out of Canada, or out of any Province of Canada, before any functionary authorized to take the same for the purpose of being used in Canada, or in such Province, shall be deemed guilty of perjury, in like manner as if such false affidavit, affirmation or declaration had been made in Canada, or in such Province, before competent authority; and such person may be dealt with, indicted, tried and if convicted, be sentenced, and the offence may be laid and charged to have been committed, in that district, county or place where he has been apprehended or is in custody.

Perjuries

Perjuries in Insurance cases.

Before whom affidavits, &c., to be used in Insurance cases may be made.

4. Any affirmation, affidavit, or declaration required by any Fire, Life or Marine Insurance Company, authorized by law to do business in Canada, in regard to any loss of property or life insured or assured therein, may be taken before any Commissioner, authorized by any of Her Majesty's Superior Courts, to take affidavits, or before any Justice of the Peace, or before any Notary Public for any Province of the Dominion; and any such officer is hereby required to take such affirmation, affidavit or declaration.

Any wilfully false statement therein to be perjury.

5. Any person, knowingly, wilfully, and corruptly making any affirmation, affidavit or declaration, required by any Fire, Life or Marine Insurance Company authorized by law to do business in Canada, claiming to be entitled to any insurance money in respect of any loss of property or life insured or assured therein, or on behalf of any person making such claim containing any false statement of fact, matter or thing in regard to such loss of property or life, shall be guilty of wilful and corrupt perjury.

Any Judge may direct that a person guilty of perjury before him be prosecuted.

6. It shall be lawful for any Judge of any Superior Court of Law or Equity, or for any Judge of any Court of Record, or any Commissioner before whom any inquiry or trial is held, and which he is by law required or authorized to hold, in case it appears to him that any person has been guilty of wilful and corrupt perjury in any evidence given, or in any affidavit, affirmation, declaration, deposition, examination, answer or other proceedings made or taken before him, to direct such person to be prosecuted for such perjury, in case there appears to such judge or commissioner a reasonable cause for such prosecution, and to commit such person so directed to be prosecuted until the next term, sittings or session of any court having power to try for perjury, in the jurisdiction within which such perjury was committed, or to permit such person to enter into a recognizance with one or more sufficient surety or sureties conditioned for the appearance of such person, at such next term or session, and that he will then surrender and take his trial and not depart the court without leave, and to require any person such judge may think fit, to enter into a recognizance conditioned to prosecute or give evidence against such person so directed to be prosecuted as aforesaid.

All evidence material with respect to perjury.

7. All evidence and proof whatsoever, whether given or made orally, or by or in any affidavit, affirmation, declaration, examination or deposition, shall be deemed and taken to be material with respect to the liability of any person to be proceeded

ceeded against and punished for wilful and corrupt perjury, or for subornation of perjury.

Venue in cases of perjury.

8. Any person accused of perjury may be tried, convicted and punished in any district, county or place where he is apprehended or is in custody.

Form of indictment in perjury.

9. In any indictment for perjury, or for unlawfully, illegally, falsely, fraudulently, deceitfully, maliciously or corruptly taking, making, signing or subscribing any oath, affirmation, declaration, affidavit, deposition, bill, answer, notice, certificate or other writing, it shall be sufficient to set forth the substance of the offence charged upon the defendant, and by what court or before whom the oath, affirmation, declaration, affidavit, deposition, bill, answer, notice, certificate or other writing was taken, made, signed or subscribed, without setting forth the bill, answer, information, indictment, declaration, or any part of any proceeding either in law or equity, and without setting forth the commission or authority of the court or person before whom such offence was committed.

Form of indictment for subornation of perjury.

10. In every indictment for subornation of perjury, or for corrupt bargaining or contracting with any person to commit wilful and corrupt perjury, or for inciting, causing or procuring any person unlawfully, wilfully, falsely, fraudulently, deceitfully, maliciously or corruptly, to take, make, sign or subscribe any oath, affirmation, declaration, affidavit, deposition, bill, answer, notice, certificate, or other writing, it shall be sufficient, whenever such perjury or other offence aforesaid has been actually committed, to allege the offence of the person who actually committed such perjury or other offence, in the manner hereinbefore mentioned, and then to allege that the defendant unlawfully, wilfully and corruptly, did cause and procure the said person, the said offence in manner and form aforesaid to do and commit; and whenever such perjury or other offence aforesaid has not actually been committed, it shall be sufficient to set forth the substance of the offence charged upon the defendant, without setting forth or averring any of the matters or things hereinbefore rendered unnecessary to be set forth or averred in the case of wilful and corrupt perjury.

Certificate of trial at which a perjury was committed to be sufficient.

11. A certificate, containing the substance and effect only (omitting the formal part) of the indictment and trial for any felony or misdemeanor, purporting to be signed by the clerk of the court or other officer having the custody of the records of the court whereat the indictment was tried, or among which such indictment has been filed, or by the deputy of such

such clerk or other officer, shall, upon trial of an indictment for perjury or subornation of perjury, be sufficient evidence of the trial of such indictment for felony or misdemeanor, without proof of the signature or official character of the person appearing to have signed the same.

Commencement of Act.

12. This Act shall commence and take effect on the first day of January, one thousand eight hundred and seventy.

CHAP. 24.

An Act for the better preservation of the Peace in the vicinity of Public Works.

[*Assented to 22nd June*, 1869.]

Preamble.

FOR the preservation of the peace, and for the protection of the lives, persons and property of Her Majesty's subjects, in the neighbourhood of public works on which large bodies of labourers are congregated and employed: Her Majesty, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows:—

Proclamation may be issued declaring this Act to apply to any place or places in Canada.

1. The Governor in Council may, as often as occasion requires, declare by Proclamation that upon and after a day therein named, this Act shall be in force in any place or places in Canada therein designated, within the limits or in the vicinity whereof any railway, canal or other public work is in progress of construction, or such places as are in the vicinity of any such canal, or railway, or other work as aforesaid, within which he deems it necessary that this Act should be in force,—and this Act shall, upon and after the day to be named in any such proclamation, take effect within the places designated in such proclamation:

May be revoked and again renewed.

2. The Governor in Council may, in like manner, from time to time, declare this Act to be no longer in force in any of such place or places; and may again from time to time declare the same to be in force therein;

Proviso.

3. But no such proclamation shall have effect within the limits of any city.

Effect of proclamation. Persons employed on the works not to keep arms.

2. Upon and after the day to be fixed for such purpose in such proclamation, no person employed upon or about any such canal, railway or other work as aforesaid, within the place or places in which this Act is then in force, shall keep or have in his possession or under his care or control, within any

any such place, any gun or other fire-arm, or air-gun or any part thereof, or any sword, sword-blade, bayonet, pike, pike-head, spear, spearhead, dirk, dagger, or other instrument intended for cutting or stabbing, or any steel or metal knuckles, or other deadly or dangerous weapon, under a penalty of not less than two dollars, nor more than four dollars, for every such weapon found in his possession.

Delivery of arms to Commissioner, &c.

3. On or before the day appointed as aforesaid in such Proclamation, every person employed on or about the canal, railway or other work to which the same relates, shall bring and deliver up to some commissioner or officer to be appointed for the purposes of this Act, every such weapon in his possession, and shall obtain from such commissioner or officer a receipt for the same.

Return of the same when the Act ceases to be in force, &c.

4. When this Act ceases to be in force within the place where any weapon has been delivered and detained in pursuance thereof, or when the owner or person lawfully entitled to any such weapon satisfies the commissioner that he is about to remove immediately from the limits within which this Act is at the time in force, the commissioner may deliver up to the owner or person authorized to receive the same, any such weapon, on production of the receipt so given for it.

Seizure of arms not delivered.

5. Every such weapon found in the possession of any person employed as aforesaid, after the day named in any proclamation as that on or before which such weapon ought to be delivered up, and within the limits designated in the Proclamation bringing this Act into force, may be seized by any justice, commissioner, constable or other peace officer, and shall be forfeited to the use of Her Majesty.

Concealing arms unlawfully.

6. If any person, for the purpose of defeating this Act, receives or conceals, or aids in receiving or concealing, or procures to be received or concealed, within any place where this Act is at the time in force, any such weapon as aforesaid belonging to or in the custody of any person employed on or about any such railway, canal or other work, such person shall forfeit a sum of not less than forty dollars nor more than one hundred dollars,—one half to belong to the informer and the other half to Her Majesty.

Search for arms, unlawfully concealed.

7. Any commissioner appointed under this Act, or any Justice of the Peace having authority within the place where this Act is at the time in force, upon the oath of a credible witness that he believes that any such weapon as aforesaid is in the possession of any person or in any house or place contrary

contrary to the provisions of this Act, may issue his warrant to any constable or peace officer to search for and seize the same, and he, or any person in his aid, may search for and seize the same in the possession of any person, or in any such house or place:

Right of entry for search.

2. In case admission to any such house or place be refused after demand, such constable or peace officer, and any person in his aid, may enter the same by force by day or by night, and seize any such weapon and deliver it to such commissioner; and unless the party in whose possession or in whose house or premises the same has been found, do, within four days next after the seizure, prove to the satisfaction of such commissioner or justice that the weapon so seized was not in his possession or in his house or place contrary to the meaning of this Act, such weapon shall be forfeited to the use of Her Majesty.

Forfeiture of arms found.

Carrying arms,—persons unlawfully so doing may be arrested.

8. Any commissioner or justice, constable or peace officer, or any person acting under a warrant, in aid of any constable or peace officer, may arrest and detain any person employed on any such railway, canal or other work, found carrying any such weapon as aforesaid, within any place where this Act is at the time in force, at such time and in such manner as in the judgment of such commissioner, justice, constable or peace officer, or person acting under a warrant, affords just cause of suspicion that they are carried for purposes dangerous to the public peace; and the act of so carrying any such weapon by any person so employed shall be a misdemeanor, and the justice or commissioner arresting such person, or before whom he is brought under such a warrant, may commit him for trial for a misdemeanor, unless he gives sufficient bail for his appearance at the next term or sitting of the court before which the offence can be tried, to answer to any indictment to be then preferred against him.

Committal if bail be not given.

Monthly return.

9. Every commissioner under this Act shall make a monthly return to the proper authority of all weapons delivered to him, and by him detained under this Act.

Sale of forfeited arms.

10. All weapons declared forfeited under this Act shall be sold or destroyed under the direction of the commissioner by whom or by whose authority the same were seized, and the proceeds of such sale, after deducting necessary expenses, shall be received by such commissioner and paid over by him to the Receiver General for the public uses of the Dominion.

Sale of liquors prohibited.

11. Upon and after the day to be fixed in such Proclamation, and during such period as the Proclamation may remain in force, no person shall, at any place within the limits specified

fied in such Proclamation, barter, sell, exchange or dispose of directly or indirectly to any other person, any alcoholic, spirituous, vinous, fermented or other intoxicating liquor, or any mixed liquor, a part of which is spirituous, or vinous, fermented or otherwise intoxicating,—nor shall expose, keep or have in his possession for sale, barter or exchange, any intoxicating liquor:

Proviso.

2. But this section shall not extend to any person selling intoxicating liquors by wholesale, and not retailing the same, if such person be a licensed distiller or brewer.

Penalty for contravention

12. Any person who, in contravention of the next preceding section, by himself, his clerk, servant or agent, exposes or keeps for sale or barters, or sells, disposes of, gives or exchanges for any other matter or thing, to any other person, any intoxicating liquor, shall be liable to a fine of twenty dollars on the first conviction, forty dollars on the second, and on the third and every subsequent conviction, to such last mentioned fine and imprisonment for a period not more than six months.

Agent selling to incur the same penalty as principal.

13. If any clerk, servant or agent, or other person in the employment or on the premises of another, sells, disposes of, or exchanges for any other matter or thing, or assists in selling, disposing of, or exchanging for any other matter or thing, any intoxicating liquor, in contravention of this Act, for the person in whose service or on whose premises he is, he shall be held equally guilty with the principal, and shall suffer the like penalty.

Search for and seizure of liquor, on information and warrant.

14. If any three credible persons make oath or affirmation before any commissioner, or Justice of the Peace, that they have reason to believe and do believe that any intoxicating liquor intended for sale or barter in contravention of this Act, is kept or deposited in any steamboat or other vessel, or in any carriage or vehicle, or in any store, shop, warehouse, or other building or premises at any place within which such intoxicating liquor is by Proclamation under this Act prohibited to be sold or bartered or kept for sale or barter, or on any river, lake or water adjoining such place, the commissioner or justice shall issue his warrant of search to any sheriff, police officer, bailiff or constable, who shall forthwith proceed to search the steamboat, vessel, premises or place described in such warrant, and if any intoxicating liquor be found therein, he shall seize the same and the barrels, casks or other packages in which it is contained, and convey them to some proper place of security, and there keep them until final action is had thereon; but no dwelling house in which or in part of which a shop or bar is not kept, shall be searched,

Proviso: where there is

searched, unless one at least of the said complainants testifies on oath to some act of sale of intoxicating liquor therein or therefrom, in contravention of this Act, within one month of the time of making the said complaint: no shop or bar.

2. The owner or keeper of the liquor seized as aforesaid, if he is known to the officer seizing the same, shall be summoned forthwith before the commissioner or justice by whose warrant the liquor was seized, and if he fails to appear, and it appears to the satisfaction of such commissioner or justice, that the said liquor was kept or intended for sale or barter, in contravention of this Act, it shall be declared forfeited with any package in which it is contained, and shall be destroyed by authority of the written order to that effect of the said commissioner or justice, and in his presence, or in the presence of some person appointed by him to witness the destruction thereof, and who shall join with the officer by whom the said liquor has been destroyed, in attesting that fact upon the back of the order by authority of which it was done; and the owner or keeper of such liquor shall pay a fine of forty dollars and costs, or be committed to prison for three months in default thereof. Forfeiture of liquor, and proceedings for that purpose.

15. If the owner, or keeper or possessor of liquor seized under the next preceding section is unknown to the officer seizing the same, it shall not be condemned and destroyed until the fact of such seizure has been advertised, with the number and description of the package as near as may be, for two weeks, by posting up a written or printed notice and description thereof in at least three public places of the place where it was seized; In case the owner is unknown.

2. And if it is proved within such two weeks, to the satisfaction of the commissioner or justice by whose authority such liquor was seized, that it was not intended for sale or barter in contravention of this Act, it shall not be destroyed, but shall be delivered to the owner, who shall give his receipt therefor upon the back of the warrant, which shall be returned to the said commissioner or justice who issued the same; but if after such advertisement as aforesaid, it appears to such commissioner, or justice, that such liquor was intended for sale or barter, in contravention of this Act, then such liquor, with any package in which it is contained, shall be condemned, forfeited, and destroyed. Delivery back to owner, in certain cases. Forfeiture in other cases.

16. Any payment or compensation for liquor sold or bartered in contravention of this Act, whether in money or securities for money, labor or property of any kind, shall be held to have been criminally received without consideration, and against law, equity and good conscience, and the amount or value Money paid for liquor may be recovered back;

And securities given for same to be void.

value thereof may be recovered from the receiver by the party making, paying or furnishing the same: and all sales, transfers, conveyances, liens and securities of every kind which either in whole or in part have been given for or on account of intoxicating liquor sold or bartered in contravention of this Act, shall be null against all persons, and no right shall be acquired thereby, and no action of any kind shall be maintained either in whole or in part for or on account of intoxicating liquor sold or bartered in contravention of this Act.

Procedure and powers of the Commissioner or Justice.

17. Any commissioner or Justice of the Peace may hear and determine in a summary manner any case arising within his jurisdiction under this Act; and every person making complaint against any other person for contravening this Act, or any part or portion thereof, before such commissioner or justice, may be admitted as a witness; and if the commissioner or justice before whom the examination or trial is had, so orders, as he may if he thinks there was probable cause for the prosecution, the defendant shall not recover costs though the prosecution fails.

Procedure: certain acts to apply to cases under this Act.

18. All the provisions of any law respecting the duties of Justices of the Peace in relation to summary convictions and orders, and to appeals from such convictions, and for the protection of Justices of the Peace when acting as such, or to facilitate proceedings by or before them, in matters relating to summary convictions and orders, shall in so far as they are not inconsistent with this Act, apply to every commissioner or justice mentioned in this Act or empowered to try offenders against this Act, and any such commissioner shall be deemed a Justice of the Peace within the meaning of any such law, whether he be or be not a Justice of the Peace for other purposes.

Limitations of actions against persons acting under this Act.

19. Any action brought against any commissioner or justice, constable, peace officer, or other person, for any thing done in pursuance of this Act, must be commenced within six months next after the fact; and the venue shall be laid or the action instituted in the district or county or place where the fact was committed; and the defendant may plead the general issue and give this Act and the special matter in evidence; and if such action is brought after the time limited, or the venue is laid or the action brought in any other district, county or place than as above prescribed, the judgment or verdict shall be given for the defendant; and in such case, or if the judgment or verdict is given for the defendant on the merits, or if the plaintiff becomes nonsuit or discontinues after appearance is entered, or has judgment rendered against him on demurrer, the defendant shall be entitled to recover double costs.

20.

Defect of form not to make proceedings void.

20. No action or other proceeding, warrant, judgment, order or other instrument or writing authorized by this Act, or necessary to carry out its provisions, shall be held void, or be allowed to fail for defect of form.

Interpretation clause.

21. In this Act the word "Commissioner" means a commissioner under this Act; the word "weapon" includes every kind of weapon mentioned or included in the second section of this Act, and all ammunition which can be used with or for any such weapon, and any instrument or thing intended to be used as a weapon; the expression "intoxicating liquor" means and includes every kind of liquor mentioned or included in the twelfth section of this Act; and the expression "District, County or Place," includes any division of any Province for the purposes of the administration of justice in the matter to which the context relates.

When this Act shall take effect.

22. This act shall commence and take effect on the first day of July, in the year of Our Lord one thousand eight hundred and sixty-nine.

CHAP. 25.

An Act respecting certain offences relative to Her Majesty's Army and Navy.

[*Assented to 22nd June*, 1869.]

Preamble.

HER Majesty, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows:—

Penalty for enticing soldiers or sailors to desert.

1. Whosoever, not being an enlisted soldier in Her Majesty's service or a seaman in Her Majesty's naval service, by words or with money, or by any other means whatsoever, directly or indirectly persuades or procures, or goes about or endeavours to persuade, prevail on or procure any such soldier or seaman to desert or leave Her Majesty's military or naval service, or conceals, receives or assists any deserter from Her Majesty's military or naval service, knowing him to be such deserter, may be convicted thereof in a summary manner before any two Justices of the Peace, or before the Mayor of any city, and any one Justice of the Peace, or before any Recorder, Judge of the Sessions of the Peace or Police Magistrate, on the evidence of one or more credible witness or witnesses, and shall then be liable to a penalty not less than eighty dollars, nor more than two hundred dollars, in the discretion of the court before which the conviction takes place, with costs, and in default of payment may be committed to gaol for

How recoverable.

for any period not exceeding six months, or until such penalty is paid.

Penalty for receiving regimental necessaries, &c.

2. Whosoever buys, exchanges or detains or otherwise receives from any soldier or deserter, any arms, clothing or furniture belonging to Her Majesty, or any such articles belonging to any soldier or deserter as are generally deemed regimental necessaries, according to the custom of the army, or causes the colour of such clothing or articles to be changed, or exchanges, buys or receives from any soldier any provisions, without leave in writing from the officer commanding the regiment or detachment to which such soldier belongs, may be convicted thereof in the manner mentioned in the next preceding section, and shall then be liable to a penalty of not less than twenty dollars nor more than forty dollars and costs, and in default of payment be committed to gaol for a period not exceeding nine months, or until such penalty is paid.

Recovery thereof.

Penalty for receiving necessaries from marines or seamen.

3. Whosoever buys, exchanges, or detains or otherwise receives from any seaman or marine, upon any account whatever, or has in his possession, any arms or clothing, or any such articles belonging to any seaman, marine or deserter, as are generally deemed necessaries, according to the custom of the navy, may be convicted thereof in the manner mentioned in the next preceding section but one, and shall then be liable to a penalty, not less than sixty dollars nor more than one hundred and twenty dollars and costs, and in default of payment shall be committed to gaol for a term not exceeding nine months, or until such penalty is paid.

Recovery thereof.

Appropriations of pecuniary penalties.

4. One-half the amount of any penalty imposed under any of the preceding sections shall be paid over to the prosecutor or person by whose means the offender has been convicted, and the other moiety shall belong to the Crown.

Offender may be prosecuted for a misdemeanor.

5. Every offence against the preceding sections of this act is a misdemeanor, and may be prosecuted as such, and the offender convicted shall then be liable to punishment by fine and imprisonment in the discretion of the court; and nothing in this Act shall be construed to prevent any person being prosecuted, convicted and punished under any Act of the Imperial Parliament in force in Canada; but no person shall be twice punished for the same offence.

Examination of witnesses about to leave the Province.

6. The examination of any soldier, seaman or marine liable to be ordered from the Province in which any offence against this Act is prosecuted, or of any witness sick, infirm or about to leave such Province, may be taken *de bene esse* before any commissioner

commissioner or other proper authority, in like manner as depositions in civil cases may be taken.

Apprehension of suspected deserters.

7. Any person reasonably suspected of being a deserter from Her Majesty's service may be apprehended and brought for examination before any Justice of the Peace, and if it appears that he is a deserter, he shall be confined in gaol until claimed by the military or naval authorities, or proceeded against according to law.

Warrant required to enter a building in search of deserters.

8. No person shall break open any building to search for a deserter unless he has obtained a warrant for that purpose from a Justice of the Peace, such warrant to be founded on affidavit that there is reason to believe that the deserter is concealed in such building, and that admittance has been demanded and refused; and any person resisting the execution of any such warrant shall thereby incur a penalty of eighty dollars, recoverable on summary conviction in like manner as other penalties under this Act.

Warrant to apprehend offenders.

9. Any Justice of the Peace upon information on oath or affirmation, may issue a warrant for the apprehension of any person charged with an offence against this Act, as in the case of other offences against the law.

CHAP. 26.

An Act for the better protection of Her Majesty's Military and Naval Stores.

[*Assented to 22nd June*, 1869.]

Preamble.

HER Majesty, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows:—

Marks to be used on H. M. stores.

1. The marks described in the schedule to this Act may be applied in or on Her Majesty's naval, military, ordnance, barrack, hospital and victualling stores, to denote Her Majesty's property in stores so marked.

Who may apply such marks.

2. The Admiralty and War Department, their contractors, officers and workmen, may apply the said marks, or any of them, in or on any such stores as are described in the said schedule.

Unlawfully using such marks, a misdemeanor.

3. Whosoever, without any lawful authority (proof of which authority shall lie on the party accused), applies any of the said marks in or on any such or any like stores, is guilty

guilty of a misdemeanor, and shall be liable to be imprisoned for any term less than two years, with or without hard labour.

Unlawfully obliterating or concealing such mark, felony.

4. Whosoever, with intent to conceal Her Majesty's property, in any naval, military, ordnance, barrack, hospital or victualling stores, takes out, destroys or obliterates, wholly or in part, any such mark as aforesaid, is guilty of felony, and shall be liable to be imprisoned for any term less than two years, with or without hard labour, and with or without solitary confinement.

Unlawfully keeping or selling stores so marked, misdemeanor.

5. Whosoever, without lawful authority (proof of which authority shall lie on the party accused), receives, possesses, keeps, sells or delivers, any naval, military, ordnance, barrack, hospital or victualling stores, bearing any such mark as aforesaid, knowing them to bear such mark, is guilty of a misdemeanor, and shall be liable to be imprisoned for any term not exceeding one year, with or without hard labour.

Knowledge that goods bear mark, presumed until contrary shewn.

6. Where the person charged with such a misdemeanor as last aforesaid was, at the time at which the offence is charged to have been committed, a dealer in marine stores, or a dealer in old metals, or in Her Majesty's service or employment, knowledge on his part that the stores to which the charge relates bore such mark as aforesaid, shall be presumed until the contrary is shewn.

Where value of stores does not exceed $25, case to be tried summarily.

7. Any person charged with such misdemeanor as last aforesaid in relation to stores, the value of which does not exceed twenty-five dollars, shall be liable on summary conviction before two Justices of the Peace, or any recorder, stipendiary magistrate or police magistrate, or the City Court of Halifax, to a penalty not exceeding one hundred dollars, or in the discretion of the court or justices or magistrate, to be imprisoned for any term not exceeding six months, with or without hard labour.

Persons in whose possession stores with mark are found, must prove that they obtained them lawfully.

8. In order to prevent a failure of justice in some cases, by reason of the difficulty of proving knowledge of the fact that stores bore such a mark as aforesaid, if any naval, military, ordnance, barrack, hospital or victualling stores, bearing any such mark, are found in the possession of any person not being a dealer in marine stores, or a dealer in old metals, and not being in Her Majesty's service, and such person, when taken or summoned before two Justices of the Peace, recorder, stipendiary magistrate, or police magistrate, or the City Court of Halifax, does not satisfy the justices, recorder, magistrate, or the court, that he came by the stores so found lawfully, he

he shall be liable, on conviction, to a penalty not exceeding twenty-five dollars; and if any such person satisfies the justices, recorder, stipendiary or police magistrate or court, that he came by the stores so found lawfully, the justices, recorder, magistrate or court, at their discretion, as the evidence given or the circumstances of the case require, may summon before them every person through whose hands such stores appear to have passed; and if any person as last aforesaid, who has had possession thereof, does not satisfy the justices, recorder, stipendiary or police magistrate or court, that he came by the same lawfully, he shall be liable, on conviction of having had possession thereof, to a penalty not exceeding twenty-five dollars, and in default of payment, to imprisonment for any period not exceeding three months, with or without hard labour.

Former possessor may be summoned.

And liable to conviction.

9. For the purposes of this Act, stores shall be deemed to be in the possession or keeping of any person, if he knowingly has them in the actual possession or keeping of any other person, or in any house, building, lodging, apartment, field or place, open or enclosed, whether occupied by himself or not, and whether the same are so had for his own use or benefit or for the use or benefit of another

What shall be deemed possession.

10. It shall not be lawful for any person, without permission in writing from the Admiralty, or from some person authorized by the Admiralty in that behalf, to creep, sweep, dredge or otherwise search for stores in the sea or any tidal or inland water, within one hundred yards from any vessel belonging to Her Majesty or in Her Majesty's service, or from any mooring place or anchoring place appropriated to such vessels, or from any mooring belonging to Her Majesty, or from any of Her Majesty's wharves or docks, victualling or steam factory yards.

Unlawful to creep, dredge, &c., for stores within 100 yards of H. M. vessels, wharves, &c., without permission.

11. Whosoever contravenes the next preceding section shall be liable, on summary conviction before two Justices of the Peace, or any recorder, stipendiary or Police Magistrate, or the City Court of Halifax, to a penalty not exceeding twenty-five dollars, or to be imprisoned for any term not exceeding three months, with or without hard labour.

Persons contravening last section liable to summary conviction.

12. And it shall not be competent for any person other than the officer commanding the naval or military forces in Canada or some person acting under his authority, to institute or carry on under this Act any prosecution or proceeding for any offence against it.

Who only may prosecute.

13. Nothing in this Act shall prevent any person from being indicted under this Act or otherwise, for any indictable offence

Nothing in this Act shall prevent in-

dictment under this or any other Act.

offence made punishable on summary conviction by this Act, or prevent any person from being liable under any other Act or otherwise, to any other or higher penalty or punishment than is provided for any offence by this Act, so that no person be punished twice for the same offence.

Term "stores" defined.

14. The term "Stores" shall include any single store or article.

Proof under this Act.

15. In all prosecutions under this Act, proof that any soldier, seaman or marine was actually doing duty in Her Majesty's service shall be *primâ facie* evidence that his enlistment, entry or enrolment has been regular.

Imprisonment under this Act in certain cases.

16. Persons convicted or sentenced to imprisonment under this Act, before the City Court of Halifax, may, in the discretion of the Court, be imprisoned in the city prison with hard labour, instead of the county gaol.

Commencement of Act.

17. This Act shall commence and take effect upon, from and after the first day of July, one thousand eight hundred and sixty-nine.

SCHEDULE.

Marks appropriated for Her Majesty's use in or on Naval, Military, Ordnance, Barrack, Hospital and Victualling stores.

STORES.	MARKS.
Hempen Cordage and Wire Rope.	White, black, or coloured worsted threads laid up with the yarns and the wire, respectively.
Canvas, Fearnought Hammocks, and Seamen's Bags.	A blue line in a serpentine form.
Bunting.	A double tape in the warp.
Candles.	Blue or red cotton threads in each wick, or wicks of red cotton.
Timber, metal, and other stores not before enumerated.	The broad arrow, with or without the letters W.D.

CHAP.

CHAP. 27.

An Act respecting Cruelty to Animals.

[*Assented to 22nd June*, 1869.]

WHEREAS it is expedient that provision should be made, extending to all Canada, for the punishment of cruelty to animals: Therefore, Her Majesty, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows:— Preamble.

1. Whosoever wantonly, cruelly, or unnecessarily beats, binds, illtreats, abuses or tortures any horse, mare, gelding, bull, ox, cow, heifer, steer, calf, mule, ass, sheep, lamb, pig or other cattle, or any poultry, or any dog, or domestic animal or bird, or whosoever driving any cattle or other animal, is, by negligence or ill-usage in the driving thereof, the means whereby any mischief, damage or injury is done by any such cattle or other animal, shall upon being convicted of any or either of the said offences before any one Justice of the Peace for the district, county or place in which the offence has been committed, for every such offence, forfeit and pay (over and above the amount of the damage or injury, if any, done thereby, which damage or injury shall and may be ascertained and awarded by such justice), such a sum of money not exceeding ten dollars, nor less than one dollar, with costs, as to such justice seems meet. Cruelty to animals, how punishable.

2. The offender shall in default of payment be committed to the common gaol or other place of confinement, for the district, county, or place in which the offence was committed, there to be imprisoned for any time not exceeding thirty days. Imprisonment in default of payment of fine.

3. Nothing in this act contained shall prevent or abridge any remedy by action against the offender or his employer where the amount of the damage is not sought to be recovered by virtue of this Act. Civil remedy not affected.

4. When any offence against this Act is committed, any constable or other peace officer, or the owner of any such cattle, animal or poultry, upon view thereof, or upon the information of any other person (who shall declare his or their name or names and place or places of abode to the said constable or other peace officer) may seize and secure by the authority of this Act, and forthwith, and without any other authority or warrant, may convey any such offender before a Justice of the Peace within whose jurisdiction the offence has been committed, to be dealt with according to law. Apprehension of offenders against this Act.

5.

In case offender refuses to state his name, &c.

5. If any person apprehended for having committed any offence against this Act refuses to discover his name and place of abode to the Justice of the Peace before whom he is brought, such person shall be immediately delivered over to a constable or other peace officer, and shall by him be conveyed to the common gaol or place of confinement for the district, county or place within which the offence has been committed, or in which the offender has been apprehended, there to remain for any term not exceeding one month, or until he makes known his name and place of abode to the said justice.

Limitation of prosecutions.

6. The prosecution of every offence punishable under this Act must be commenced within three months next after the commission of the offence, and not otherwise.

Act respecting summary convictions to apply.

7. Every offence against any of the sections of this Act is a misdemeanor, and may be punished as such or may be prosecuted in the manner directed by the "*Act respecting the duties of Justices of the Peace, out of Sessions, in relation to summary convictions and orders*," so far as no provision is hereby made for any matter or thing which may be required to be done with respect to such prosecuction; and all the provisions contained in the said Act shall be applicable to such prosecutions, in the same manner as if they were incorporated in this Act.

Application of penalties.

8. All pecuniary penalties recovered before any Justice of the Peace under this Act, shall be divided, paid and distributed in the following manner, that is to say: one moiety thereof to the corporation of the city, town, village, township, parish or place in which the offence was committed, and the other moiety, with full costs, to the person who informed and prosecuted for the same, or to such other person as to such justice seems proper.

As to amounts paid as damages.

9. Every sum of money ascertained and awarded, adjudged by any Justice of the Peace under this Act to be paid as the amount of any damage or injury occasioned by the commission of any of the offences hereinbefore mentioned, shall be paid to the person who has sustained such damage or injury.

Interpretation.

10. Where the word "cattle" is used in this act it shall have the meaning assigned to it in the Act respecting larceny and other similar offences.

Commencement of Act.

11. This Act shall commence and take effect upon, from and after the first day of January, one thousand eight hundred and seventy.

CHAP

CHAP. 28.

An Act respecting Vagrants.

[*Assented to 22nd June*, 1869.]

Preamble. HER Majesty, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows:—

Who shall be deemed vagrants. 1. All idle persons who, not having visible means of maintaining themselves, live without employment,—all persons who, being able to work and thereby or by other means to maintain themselves and families, wilfully refuse or neglect to do so,—all persons openly exposing or exhibiting in any street, road, public place or highway any indecent exhibition, or openly or indecently exposing their persons,—all persons who, without a certificate signed, within six months, by a priest, clergyman or minister of the gospel, or two Justices of the Peace, residing in the municipality where the alms are being asked, that he or she is a deserving object of charity, wander about and beg, or who go about from door to door, or place themselves in the streets, highways, passages or public places to beg or receive alms, all persons loitering in the streets or highways and obstructing passengers by standing across the footpaths or by using insulting language or in any other way, or tearing down or defacing signs, breaking windows, breaking doors or door-plates, or the walls of houses, roads or gardens, destroying fences, causing a disturbance in the streets or highways by screaming, swearing or singing, or being drunk, or impeding or incommoding peaceable passengers,—all common prostitutes, or night walkers wandering in the fields, public streets or highways, lanes or places of public meeting or gathering of people, not giving a satisfactory account of themselves,—all keepers of bawdy-houses and houses of ill-fame, or houses for the resort of prostitutes, and persons in the habit of frequenting such houses, not giving a satisfactory account of themselves,—all persons who have no peaceable profession or calling to maintain themselves by, but who do for the most part support themselves by gaming or crime or by the avails of prostitution,—shall be deemed vagrants, loose, idle or disorderly persons within the meaning of this Act, and shall upon conviction before any stipendiary or police magistrate, mayor or warden, or any two Justices of the Peace, be deemed guilty of a misdemeanor and be punished by imprisonment in any gaol or place of confinement other than the penitentiary, for a term not exceeding two months and with or without hard labour, or by a fine not exceeding fifty dollars, or by both, such fine and imprisonment being in the discretion of the convicting magistrate or justices.

Punishment of vagrants on summary conviction.

2.

Justices may cause any such person to be brought before them.

2. Any stipendiary or police magistrate, mayor or warden, or any two Justices of the Peace upon information before them made, that any person hereinbefore described as vagrants, loose, idle and disorderly persons, are or are reasonably suspected to be harbored or concealed in any bawdy-house, house of ill-fame, tavern or boarding-house, may, by warrant, authorize any constable or other person to enter at any time such house or tavern, and to apprehend and bring before them or any other justices, all persons found therein so suspected as aforesaid.

CHAP. 29.

An Act respecting Procedure in Criminal Cases, and other matters relating to Criminal Law.

[*Assented to 22nd June*, 1869.]

Preamble.

WHEREAS, by divers Acts passed during the now last and the present session of Parliament, certain provisions of the statute law of the several Provinces of Canada, respecting certain crimes and offences, have been assimilated, amended and consolidated, and extended to all Canada, and it is expedient, in like manner, to assimilate, amend and consolidate and to extend certain other provisions of the said statute law, respecting procedure and other matters not included in the said Acts: Therefore, Her Majesty, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows:—

Interpretation.

Interpretation of certain words.

1. In the interpretation of this Act and of any Act of the Parliament of Canada relating to Criminal Law, unless there be something in the enactment or in the context indicating a different meaning or calling for a different construction:

"Indictment."

1. The word "indictment" shall be understood to include "information," "inquisition" and "presentment" as well as indictment, and also any plea, replication or other pleading, and any record; and the term "finding of the indictment" shall include also "the taking of an inquisition," "the exhibiting an information" and "the making of a presentment;"

"Property."

and the word "property" shall be understood to include goods, chattels, money, valuable securities, and every other matter or thing, whether real or personal, upon or with respect to which any offence may be committed; and the

"District, County," &c.

expression "district, county or place" shall include any division of any Province of Canada, for purposes relative to the administration of justice in criminal cases;

2.

Genders, numbers, &c.

2. Whenever in any Act relating to any offence, whether punishable upon indictment or summary conviction, any word has been used or employed importing the singular number or the masculine gender only, in describing or referring to the offence or to the subject matter on or with respect to which it may be committed, or to the offender or the party affected or intended to be affected by the offence, such Act shall be understood to include several matters of the same kind, as well as one matter, and several persons as well as one person, and females as well as males, and bodies corporate as well as individuals, and when a forfeiture or penalty is made payable to a party aggrieved, it shall be payable to a body corporate in case such a body be the party aggrieved;

Bodies corporate.

Punishment to be only on conviction.

3. Whenever a person doing a certain act is declared to be guilty of any offence, and to be liable to punishment therefor, it shall be understood that such person shall only be deemed guilty of such offence and liable to such punishment after being duly convicted of such act; and whenever it is provided that the offender shall be liable to different degrees or kinds of punishment, it shall be understood that the punishment to be inflicted, will, subject to the limitations contained in the enactment, be in the discretion of the court or tribunal before which the conviction takes place;

Degrees of punishment.

"Penitentiary."

4. The word "penitentiary" shall be understood to mean the penitentiary for the province in which the conviction takes place; and any person sentenced to imprisonment in the penitentiary shall be subject to the provisions of the statutes relating to such penitentiary, and to all rules and regulations lawfully made under any such statute;

"Justice."

5. The word "justice" shall be understood to mean a Justice of the Peace;

"Any Act."

6. The expression "any Act," or, "any other Act," when it occurs in this Act or in any other Act of the Parliament of Canada, relating to criminal law, shall include any Act passed or to be passed by the Parliament of Canada, or any Act passed by the Legislature of the late Province of Canada, or passed or to be passed by the Legislature of any Province of Canada, or passed by the Legislature of any Province included in Canada, before it was included therein, unless there be something in the subject or context inconsistent with such construction.

Apprehension of Offenders, &c.

Offenders caught in the act may be

2. Any person found committing an offence punishable either upon indictment, or upon summary conviction, may be immediately

Summarily arrested.

immediately apprehended by any constable or peace officer, without a warrant, or by the owner of the property on or with respect to which the offence is being committed, or by his servant or any other person authorized by such owner, and shall be forthwith taken before some neighboring Justice of the Peace, to be dealt with according to law.

Persons in possession of stolen goods may be arrested.

3. If any person to whom any property is offered to be sold, pawned or delivered, has reasonable cause to suspect that any such offence has been committed on or with respect to such property, he may, and if in his power, he shall apprehend and forthwith carry before a Justice of the Peace, the party offering the same, together with such property, to be dealt with according to law.

Arrest of offenders caught in the act in the night time.

4. Any person may apprehend any other person found committing any indictable offence in the night, and shall convey or deliver him to some constable or other person, in order to his being taken, as soon as conveniently may be, before a Justice of the Peace, to be dealt with according to law.

Other cases in which a constable may arrest without warrant.

5. Any constable or peace officer may, without a warrant, take into custody any person whom he finds lying or loitering in any highway, yard or other place, during the night, and whom he has good cause to suspect of having committed or being about to commit any felony, and may detain such person until he can be brought before a Justice of the Peace, to be dealt with according to law.

Detention of person arrested, limited.

6. No person having been apprehended as last aforesaid shall be detained after noon of the following day without being brought before a Justice of the Peace.

Proceedings before Justices, how regulated.

7. The proceedings to be had before any Justice or Justices of the Peace when any offender is brought before him or them, are regulated by the "*Act respecting the duties of Justices of the Peace out of Sessions in relation to persons charged with indictable offences*," and the "*Act respecting the duties of Justices of the Peace out of Sessions, in relation to summary convictions and orders*," subject to any special provision contained in any Act relating to the particular offence with which such offender is charged.

Venue, place of trial, &c.

Where offences committed on the confines of

8. When any felony or misdemeanor is committed on the boundary of two or more districts, counties or places, or within the distance of one mile of any such boundary, or in any

any place with respect to which it may be uncertain within which of two or more districts, counties or places it is situate, or when any felony or misdemeanor is begun in one district, county or place, and completed in another, every such felony or misdemeanor may be dealt with, inquired of, tried, determined and punished, in any one of the said districts, counties or places in the same manner as if it had been actually and wholly committed therein. districts, &c., may be tried.

9. When any felony or misdemeanor is committed on any person, or on or in respect of any property, in or upon any coach, waggon, cart or other carriage whatever, employed in any journey, or is committed on any person, or on or in respect of any property on board any vessel, boat or raft whatever, employed in any voyage or journey upon any navigable river, canal or inland navigation, such felony or misdemeanor may be dealt with, inquired of, tried, determined and punished, in any district, county or place, through any part whereof such coach, waggon, cart, carriage or vessel, boat or raft, passed in the course of the journey or voyage during which such felony or misdemeanor was committed, in the same manner as if it had been actually committed in such district, county or place. Offences committed on persons or property while *in transitu* by land or water, where triable.

10. In all cases where the side, centre, bank, or other part of any highway, or of any river, canal, or navigation, constitutes the boundary of any two districts, counties or places, any felony or misdemeanor mentioned in the two last preceding sections may be dealt with, inquired of, tried, determined and punished in either of such districts, counties or places, through or adjoining to, or by the boundary of any part whereof such coach, waggon, cart, carriage or vessel, boat or raft, passed in the course of the journey or voyage during which such felony or misdemeanor was committed, in the same manner as if it had been actually committed in such district, county or place. Offences committed on highways, rivers, &c., dividing two districts, &c., where triable.

11. Whenever it appears to the satisfaction of the court or judge hereinafter mentioned, that it is expedient to the ends of justice that the trial of any person charged with felony or misdemeanor should be held in some district, county or place other than that in which the offence is supposed to have been committed, or would otherwise be triable, the court at which such person is or is liable to be indicted, may at any term or sitting thereof, and any judge who might hold or sit in such court, may at any other time, order, either before or after the presentation of a bill of indictment, that the trial shall be proceeded with in some other district, county or place within the same Province, to be named by the court or judge in such Venue may be changed in certain cases, and how and on what condition.

such order; but such order shall be made upon such conditions as to the payment of any additional expense thereby caused to the accused, as the court or judge may think proper to prescribe;

Transmission of records, &c., to place of trial.

2. Forthwith upon the order of removal being made by the court or judge, the indictment, if any has been found against the prisoner, and all inquisitions, information, depositions, recognizances, and other documents whatsoever relating to the prosecution against him, shall be transmitted by the officer having the custody thereof to the proper officer of the court at the place where the trial is to be had, and all proceedings in the case shall be had, or, if previously commenced, shall be continued in such district, county or place as if the case had arisen or the offence had been committed therein;

Removal of prisoners to new place of trial.

3. The order of the court, or of the judge, made under the first sub-section of this section, shall be a sufficient warrant, justification and authority to all sheriffs, gaolers, and peace officers for the removal, disposal and reception of the prisoner in conformity with the terms of such order; and the sheriff may appoint and empower any constable to convey the prisoner to the gaol in the district, county or place in which the trial is ordered to be had;

Recognizances to apply to such place.

4. Every recognizance which may have been entered into or shall be entered into for the prosecution of any person, and every recognizance, as well of any witness to give evidence, as of any person for any offence, shall, in case any such order, as provided by sub-section number one of this section, is made, be obligatory on each of the parties bound by such recognizance as to all things therein mentioned with reference to the said trial, at the place where such trial is so ordered to be had, in like manner as if such recognizance had been originally entered into for the doing of such things at such last mentioned place: Provided that notice in writing shall be given either personally or by leaving the same at the place of residence of the parties bound by such recognizance, as therein described, to appear before the court, at the place where such trial is ordered to be had.

Proviso: notice to cognizors.

Certain Courts only to try certain offences.

12. No Court of General or Quarter Sessions or Recorder's Court, nor any court but a Superior Court having criminal jurisdiction shall have power to try any treason, or any felony punishable with death, or any libel.

Indictments.

Indictment need not be on parchment.

13. It shall not be necessary that any indictment or any record or document relative to any criminal case, be written on parchment.

14

Indictment found against a person already in custody.

14. When an indictment is found against any person for whose appearance at any court to answer the offence, a recognizance has been given, and such person is confined in any penitentiary or gaol within the jurisdiction of such court, under warrant of commitment, or under sentence for some other offence, the court may, by order in writing, direct the warden of the penitentiary or the keeper of such gaol to bring up such person to be arraigned on such indictment, without a writ of *habeas corpus*, and the warden or keeper shall obey such order.

Not necessary to state the venue in the body of the indictment.

15. It shall not be necessary to state any venue in the body of any indictment; and the district, county or place named in the margin thereof, shall be the venue for all the facts stated in the body of the indictment; but in case local description be required, such local description shall be given in the body thereof.

As to abolition of benefit of clergy.

16. Benefit of clergy is hereby declared to have been abolished, but such abolition does not prevent the joinder in an indictment of any counts which might have been joined but for such abolition.

In case of property owned by partners, &c., it shall be sufficient to name one of such partners, &c.

17. Whenever, in any indictment for felony or misdemeanor, it is requisite to state the ownership of any property real or personal, which belongs to or is in possession of more than one person, whether such persons be partners in trade, joint tenants, parceners or tenants in common, it shall be sufficient to name one of such persons, and to state the property to belong to the person so named, and another or others, as the case may be.

Case of joint tenants, joint stock companies, &c.

18. If in any indictment for felony or misdemeanor, it be necessary for any purpose to mention any partners, joint tenants, parceners, or tenants in common, it shall be sufficient to describe them in the manner aforesaid; and this provision and that of the last preceding section shall extend to all joint-stock companies and trustees.

When property need not be laid in person.

19. In any indictment for felony or misdemeanor committed: 1. In or upon, or with respect to any church, chapel, or place of religious worship,—or 2. To any highway, bridge, court-house, gaol, house of correction, penitentiary, infirmary, asylum, or other public building,—or 3. To any railway, canal, lock, dam, or other public work erected or maintained in whole or in part at the expense of the Dominion of Canada, or of any of the provinces of which it is composed, or of any municipality, county, parish or township, or other subdivision thereof,—or 4. With respect to any materials, goods, or

or chattels belonging to or provided for, or at the expense of the Dominion or of any such province, or of any municipality or other sub-division thereof, to be used for making, altering or repairing any highway, or bridge, or any court-house or other such building, railway, canal, lock, dam, or other public work as aforesaid, or to be used in or with any such work, or for any other purpose whatever, it shall not be necessary to state any such property, real or personal, to be the property of any person.

Property in roads, &c., to be laid in trustees or commissioners without naming them.

20. In any indictment for felony or misdemeanor, committed on or with respect to any house, building, gate, machine, lamp, board, stone, post, fence or other thing erected or provided by any trustees or commissioners in pursuance of any Act in force in Canada, or in any Province thereof, for making any turnpike road, or to any conveniences or appurtenances thereunto respectively belonging, or to any materials, tools or implements provided for making, altering or repairing any such road, it shall be sufficient to state any such property to belong to the trustees or commissioners of such road, without specifying the names of such trustees or commissioners.

Ownership of property in possession of public officers, how to be stated.

21. In any indictment for any felony or misdemeanor committed on or with respect to any buildings, or any goods or chattels, or any other property, real or personal, in the occupation, or under the superintendence, charge or management of any public officer or commissioner, or any county, parish, township or municipal officer or commissioner, it shall be sufficient to state any such property to belong to the officer or commissioner in whose occupation, or under whose superintendence, charge or management such property is, and it shall not be necessary to specify the names of any such officers or commissioners.

Property under management of body corporate.

22. All property, real and personal, whereof any body corporate has, by law, the management, control or custody, shall, for the purpose of any indictment, or proceeding against any other person for any offence committed on or in respect thereof, be deemed to be the property of such body corporate.

Omission of certain averments, &c., not fatal to indictment.

23. No indictment shall be held insufficient for want of the averment of any matter unnecessary to be proved, nor for the omission of the words "as appears upon the record" or "as appears by the record," or of the words "with force and arms," or of the words "against the peace" or for the insertion of the words "against the form of the statute" instead of the words "against the form of the statutes," or *vice versâ*,—or for the omission of such words, or for the want of an addition or for an imperfect addition of any person mentioned in the indictment, or for that any person mentioned in the indictment

ment is designated by a name of office or other descriptive appellation instead of his proper name, or for omitting to state the time at which the offence was committed in any case where time is not of the essence of the offence, or for stating the time imperfectly, or for stating the offence to have been committed on a day subsequent to the finding of the indictment, or on an impossible day, or on a day that never happened, or for want of a proper or perfect venue, or for want of a proper or formal conclusion or for want of or imperfection in the addition of any defendant, or for want of the statement of the value or price of any matter or thing, or the amount of damage, injury or spoil, in any case where the value or fine or amount of damage, injury or spoil is not of the essence of the offence.

Description of instruments generally.

24. Whenever it is necessary to make an averment in an indictment, as to any instrument, whether the same consists wholly or in part of writing, print or figures, it shall be sufficient to describe such instrument by any name or designation by which the same may be usually known, or by the purport thereof, without setting out any copy or *fac-simile* of the whole or of any part thereof.

What necessary in describing money or bank notes.

25. Whenever in any indictment it is necessary to make an averment as to any money or to any note of any bank, or Dominion or Provincial note, it shall be sufficient to describe such money or note simply as money, without any allegation (so far as regards the description of the property) specifying any particular coin or note, and such averment shall be sustained by proof of any amount of coin or of any such note, although the particular species of coin of which such amount was composed, or the particular nature of the note be not proved.

Indictment, &c., for subsequent offences: what statements shall be sufficient.

26 In any indictment for any indictable offence committed after a previous conviction or convictions for any felony, misdemeanor, or offence or offences punishable upon summary conviction, and for which a greater punishment may be inflicted on that account, it shall be sufficient, after charging the subsequent offence, to state that the offender was at a certain time and place, or at certain times and places, convicted of felony or of an indictable misdemeanor, or of an offence or offences punishable upon summary conviction (as the case may be), and to state the substance and effect only, omitting the formal part, of the indictment and conviction, or of the summary conviction (as the case may be) for the previous offence, without otherwise describing the previous offence or offences, and a certificate containing the substance and effect only (omitting the formal part) of the indictment and conviction for the previous felony or misdemeanor, or a copy of any such

such summary conviction, purporting to be signed by the clerk of the court or other officer having the custody of the records of the court where the offender was first convicted, or to which such summary conviction has been returned, or by the deputy of such clerk or officer, shall upon proof of the identity of the person of the offender, be sufficient evidence of such conviction, without proof of the signature or official character of the person appearing to have signed the same; and the proceedings upon any indictment for committing any offence after a previous conviction or convictions shall be as follows (that is to say),—the offender shall, in the first instance, be arraigned upon so much only of the indictment as charges the subsequent offence, and if he pleads not guilty, or if the court orders a plea of not guilty to be entered on his behalf, the jury shall be charged, in the first instance to inquire concerning such subsequent offence only, and if they find him guilty, or if on arraingement he pleads guilty, he shall then, and not before, be asked whether he was so previously convicted as alleged in the indictment, and if he answers that he was so previously convicted, the court may proceed to sentence him accordingly, but if he denies that he was so previously convicted, or stands mute of malice, or will not answer directly to such question, the jury shall then be charged to inquire concerning such previous conviction or convictions, and in such case it shall not be necessary to swear the jury again but the oath already taken by them shall for all purposes be deemed to extend to such last mentioned inquiry: Provided that if upon the trial of any person for any such subsequent offence, such person gives evidence of his good character, it shall be lawful for the prosecutor, in answer thereto, to give evidence of the conviction of such person for the previous offence or offences, before such verdict of guilty is returned, and the jury shall inquire concerning such previous conviction or convictions at the same time that they inquire concerning such subsequent offence.

When and how the previous conviction is to be proved on the trial.

Proviso: if the defendant give evidence of good character.

27. The forms of indictment contained in the Schedule A to this Act may be used, and shall be sufficient as respects the several offences to which they respectively relate; and as respects offences not mentioned in the Schedule, the said forms shall serve as a guide to shew the manner in which the offences are to be charged, so as to avoid surplusage and verbiage, and the averment of matters not necessary to be proved, and the indictment shall be good if, in the opinion of the court, the prisoner will sustain no injury from its being held to be so, and the offence or offences intended to be charged by it can be understood from it.

Forms in schedule to be sufficient; and general provision as to sufficiency.

Preliminary requirements as to certain Indictments.

Requirements as to indictments for certain offences.

28. No bill of indictment for any of the offences following, viz.: perjury, subornation of perjury, conspiracy, obtaining money or other property by false pretences, keeping a gambling house, keeping a disorderly house, or any indecent assault, shall be presented to, or found by any grand jury, unless the prosecutor or other person presenting such indictment has been bound by recognizance to prosecute or give evidence against the person accused of such offence, or unless the person accused has been committed to or detained in custody, or has been bound by recognizance to appear to answer to an indictment to be preferred against him for such offence, or unless the indictment for such offence is preferred by the direction of the Attorney General, or Solictor General for the Province, or of a judge of a court having jurisdiction to give such direction or to try the offence.

Proceedings before Justices in such cases.

29. Where any charge or complaint is made before any one or more Justices of the Peace, that any person has committed any of the offences in the next preceding section mentioned, within the jurisdiction of such justice or justices, and such justice or justices refuses or refuse to commit or to bail the person charged with such offence, to be tried for the same, then, in case the prosecutor desires to prefer an indictment respecting the said offence, it shall be lawful for the said justice or justices, and he or they is or are hereby required to take the recognizance of such prosecutor, to prosecute the said charge or complaint, and to transmit the recognizance, information and depositions, if any, to the proper officer, in the same manner as such justice or justices would have done, in case he or they had committed the person charged to be tried for such offence.

Dilatory pleas, arraignment, challenges, jurors, &c.

No persons entitled of right to traverse or have time to plead. Court may postpone trial, upon terms; &c.

30. No person prosecuted shall be entitled as of right to traverse or postpone the trial of any indictment preferred against him in any court, or to imparl, or to have time allowed him to plead or demur to any such indictment: Provided always, that if the court, before which any person is so indicted, upon the application of such person, or otherwise, is of opinion, that he ought to be allowed a further time to plead or demur or to prepare for his defence, or otherwise, such court may grant such further time to plead or demur, or may adjourn the receiving or taking of the plea or demurrer, and the trial, or (as the case may be) the trial of such person, to some future time of the sittings of the court or to the next or any subsequent session or sittings of the court, and upon such terms as to bail or otherwise, as to the

the court seems meet, and may, in the case of adjournment to another session or sitting, respite the recognizances of the prosecutor and witnesses accordingly, in which case the prosecutor and witnesses shall be bound to attend to prosecute and give evidence at such subsequent session or sittings, without entering into any fresh recognizances for that purpose.

ndictment not to be abated by reason of dilatory plea of misnomer, &c.

31. No indictment shall be abated by reason of any dilatory plea of misnomer, or of want of addition, or of wrong addition of any party offering such plea; but if the court be satisfied, by affidavit or otherwise, of the truth of such plea, the court shall forthwith cause the indictment to be amended according to the truth, and shall call upon such party to plead thereto, and shall proceed as if no such dilatory plea had been pleaded.

When objection to indictment is to be taken. How and when defects may be amended.

32. Every objection to any indictment for any defect apparent on the face thereof, must be taken by demurrer or motion to quash the indictment, before the defendant has pleaded, and not afterwards; and every court, before which any such objection is taken, may, if it be thought necessary, cause the indictment to be forthwith amended in such particular, by some officer of the court or other person, and thereupon the trial shall proceed as if no such defect had appeared; and no motion in arrest of judgment shall be allowed for any defect in the indictment which might have been taken advantage of by demurrer, or amended under the authority of this Act.

A plea of "Not guilty" puts the prisoner on his trial by jury.

33. If any person being arraigned upon any indictment for any indictable offence pleads thereto a plea of "Not Guilty," he shall by such plea, without any further form, be deemed to have put himself upon the country for trial, and the court may, in the usual manner, order a jury for the trial of such person accordingly.

If he refuses to plead, Court may order a plea o "No guilty" to be entered.

34. If any person, being arraigned upon any indictment for any indictable offence, stands mute of malice, or will not answer directly to the indictment, in every such case it shall be lawful for the court, if it thinks fit, to order the proper officer to enter a plea of "not guilty" on behalf of such person, and the plea so entered shall have the same force and effect as if such person had actually pleaded the same.

Form of plea of *autrefois convict* or *autrefois acquit*.

35. In any plea of *autrefois convict* or *autrefois acquit* it shall be sufficient for any defendant to state that he has been lawfully convicted or aquitted (as the case may be) of the offence charged in the indictment.

Attainder of another crime not pleadable.

36. No plea setting forth any attainder shall be pleaded in bar of any indictment, unless the attainder be for the same offence as that charged in the indictment.

Peremptory challenges by the prisoner; to what extent allowed and when void.

37. If any person arraigned for treason or felony challenges peremptorily a greater number of men returned to be of the jury than twenty in a case of indictment for treason or felony punishable with death, or twelve in case of indictment for any other felony, or four in case of indictment for misdemeanor, every peremptory challenge beyond the number so allowed in the said cases respectively shall be entirely void, and the trial of such person shall proceed as if no such challenge had been made, but nothing herein contained shall be construed to prevent the challenge of any number of jurors for cause.

Challenges on part of the Crown.

38. In all criminal trials, whether for treason, felony or misdemeanor, four jurors may be peremptorily challenged on the part of the Crown; but this shall not be construed to effect the right of the Crown to cause any juror to stand aside until the panel has been gone through, or to challenge any number of jurors for cause.

Juries *de mediatate linguæ.*

39. Juries *de mediatate linguæ* shall not hereafter be allowed in the case of aliens.

As to Juries half English and half French in Quebec.

40. In those districts in the Province of Quebec in which the sheriff is required by law to return a panel of petit jurors composed one half of persons speaking the English language, and one half of persons speaking the French language, he shall in his return specify separately those jurors whom he returns as speaking the English language, and as those whom he returns as speaking the French language respectively; and the names of the jurors so summoned shall be called alternately from the said lists;

Peremptory challenges to be divided.

2. Whenever a person accused of treason or felony elects to be tried by a jury composed one half of persons skilled in the language of the defence, the number of peremptory challenges to which he is entitled shall be divided, so that he shall only have the right to challenge one half of such number from the English speaking jurors and one half from the French speaking jurors;

3. This section applies only to the Province of Quebec.

Supplying defect of jurors if the panel is exhausted.

41. Whenever in any criminal case, the panel has been exhausted by challenge, or by default of jurors by non-attendance or not answering when called, or from any other cause, and a complete jury for the trial of such case cannot be had

by reason thereof, then upon request made on behalf of the Crown, the court may in its discretion order the sheriff or other proper officer forthwith to summon such number of good men of the district, county or place, whether on the roll of jurors or otherwise qualified as jurors or not, as the court may deem necessary and may direct, in order to make up a full jury; and such sheriff or officer shall forthwith summon by word of mouth or in writing, the number of persons he is so required to summon, and add their names to the general panel of jurors returned to serve at that court, and (subject to the right of the Crown and of the accused respectively, as to challenge or direction to stand aside) the persons whose names are so added to the panel shall (whether otherwise qualified or not) be deemed duly qualified as jurors in the case, and so until a complete jury is obtained, and the trial shall then proceed as if such jurors were originally returned duly and regularly on the panel; and if before such order one or more persons have been sworn or admitted unchallenged on the jury, he or they may be retained on the jury, or the jury may be discharged, as the court may direct; every person so summoned as a juror shall forthwith attend and act in obedience to the summons, and if he makes default shall be punishable in like manner as a juror summoned in the usual way; such jurors so newly summoned shall be added to the panel for such case only.

Saving of powers not expressly altered.

42. Nothing in this Act shall alter, abridge or affect any power or authority which any court or judge hath when this Act takes effect, or any practice or form in regard to trials by jury, jury-process, juries or jurors, except only in cases where such power or authority is expressly altered by or is inconsistent with the provisions of this Act.

Certain persons may make affirmation and act as jurors.

43. Any Quaker or other person allowed by law to affirm instead of swearing in civil cases, or solemnly declaring that the taking of any oath is, according to his religious belief unlawful, who is summoned as a grand or petit juror in any criminal case shall, instead of being sworn in the usual form, be permitted to make a solemn affirmation beginning with the words following: "I, A.B. do solemnly, sincerely and truly affirm," and may then serve as a juror as if he had been sworn, and his declaration or affirmation shall have the same effect as an oath to the like effect; and in any record or proceeding relating to the case, it may be stated that the jurors were sworn or affirmed; and in any indictment the words "upon their oath present," shall be understood to include the affirmation of any juror affirming instead of swearing.

As to Acts of Provincial Legislatures

44. And for avoiding doubt, it is declared and enacted, that every person qualified and summoned as a grand juror or

or as a petit juror in criminal cases, according to the laws which may be then in force in any Province of Canada, shall be and shall be held to be duly qualified to serve as such juror in that Province, whether such were laws passed before or be passed after the coming into force of the "*British North America Act*, 1867,"—subject always to any provision in any Act of the Parliament of Canada, and in so far as such laws are not inconsistent with any such Act. Respecting jurors, in criminal cases. Proviso.

Trial, defence, verdict, attainder, &c.

15. All persons tried for any indictable offence shall be admitted, after the close of the case for the prosecution, to make full answer and defence thereto by counsel learned in the law; Full defence in cases of felony.

2. And upon any trial the addresses to the jury shall be regulated as follows: The counsel for the prosecution, in the event of the defendant or his counsel not announcing at the close of the case for the prosecution, his intention to adduce evidence, shall be allowed to address the jury a second time at the close of such case, for the purpose of summing up the evidence; and the accused, or his counsel, shall then be allowed to open his case and also to sum up the evidence, if any be adduced for the defence; and the right of reply shall be according to the practice of the courts in England: Provided always, that the right of reply shall be always allowed to the Attorney or Solicitor General, or to any Queen's Counsel acting on behalf of the Crown. How addresses of Counsel to jury shall be regulated. Proviso.

16. All persons under trial shall be entitled, at the time of their trial, to inspect without fee or reward all depositions (or copies thereof,) taken against them, and returned into the court before which such trial is had. Inspection of depositions by prisoners.

17. Every person indicted for any crime or offence shall, before being arraigned on the indictment, be entitled to a copy thereof, on paying the clerk ten cents per folio for the same, if the court is of opinion that the same can be made without delay to the trial, but not otherwise. Copy of indictment to persons under trial.

18. Every person indicted shall be entitled to a copy of the depositions returned into court on payment of ten cents per folio for the same, provided, (if the same are not demanded before the opening of the assizes, term, sittings, or sessions), the court is of opinion that the same can be made without delay to the trial, but not otherwise; but the court may, if it see fit, postpone the trial on account of such copy of the depositions not having been previously had by the person charged. Also copies of depositions, under certain conditions.

19.

Verdict and punishment in cases where offences are not completed.

49. If, on trial of any person charged with any felony or misdemeanor, it appears to the jury, upon the evidence, that the defendant did not complete the offence charged, but that he was guilty only of an attempt to commit the same, such person shall not, by reason thereof, be entitled to be acquitted, but the jury shall be at liberty to return as their verdict that the defendant is not guilty of the felony or misdemeanor charged, but is guilty of an attempt to commit the same; and thereupon such person shall be liable to be punished in the same manner as if he had been convicted upon an indictment for attempting to commit the particular felony or misdemeanor charged in the indictment; and no person tried as lastly mentioned shall be liable to be afterwards prosecuted for committing or attempting to commit the felony or misdemeanor for which he was so tried.

Persons tried for misdemeanor and found guilty of felony not to be acquitted.

50. If, upon the trial of any person for any misdemeanor, it appears that the facts given in evidence, while they include such misdemeanor, amount in law to a felony, such person shall not, by reason thereof, be entitled to be acquitted of such misdemeanor, (and the person tried for such misdemeanor, if convicted, shall not be liable to be afterwards prosecuted for felony on the same facts), unless the court before which such trial is had, thinks fit, in its discretion, to discharge the jury from giving any verdict upon such trial, and to direct such person to be indicted for felony, in which case such person may be dealt with in all respects as if he had not been put upon his trial for such misdemeanor.

Proviso.

Verdict of assault in cases of felony including assault.

51. On the trial of any person for any felony whatever, where the crime charged includes an assault against the person, although an assault be not charged in terms, the jury may acquit of the felony, and find a verdict of guilty of assault against the person indicted, if the evidence warrants such finding, and the person so convicted shall be liable to be imprisoned in the penitentiary, for any term not exceeding five years and not less than two years, or to be imprisoned in any other gaol or place of confinement for any term less than two years.

Non-liability for attempt after trial for commission.

52. No person shall be tried or prosecuted for an attempt to commit any felony or misdemeanor who has been previously tried for committing the same offence.

No enquiry concerning lands.

53. The jury empannelled to try any person for treason or felony shall not be charged to enquire concerning his lands, tenements or goods, nor whether he fled for such treason or felony.

54.

No deodand.

54. There shall be no forfeiture of any chattels, which may have moved to or caused the death of any human being, in respect of such death.

Except for high treason attainder not to disinherit the heir.

55. Except in cases of treason, or of abetting, procuring or counselling the same, no attainder shall extend to the disinheriting of any heir, or to the prejudice of the right or title of any person, other than the right or title of the offender during his natural life only.

The heir may enter after death of offender.

56. Every person to whom, after the death of any such offender, the right or interest to or in any lands, tenements or hereditaments, should or would have appertained if no such attainder had taken place, may, after the death of such offender, enter into the same.

Jury separating, &c.

Court may allow Jury to separate in certain cases.

57. In all criminal cases, less than felony, the jury may, in the discretion of the court, and under its direction as to the conditions, mode and time, be allowed to separate during the progress of the trial.

Evidence—Witnesses.

Depositions taken on one charge may be read in prosecution of others.

58. Depositions taken in the preliminary or other investigation of any charge against any person may be read as evidence in the prosecution of such person for any other offence whatsoever, upon the like proof and in the same manner, in all respects, as they may according to law be read in the prosecution of the offence with which such person was charged when such depositions were taken.

Witnesses within Canada but without the jurisdiction of the Court.

59. If any witness in any criminal case, cognizable by indictment in any court of criminal jurisdiction at any term, sessions, or sittings of any such court in any part of Canada, resides in any part thereof, not within the ordinary jurisdiction of the court before which such criminal case is cognizable, such court may issue a writ of subpœna, directed to such witness, in like manner as if such witness were resident within the jurisdiction of the court; and in case such witness does not obey such writ of subpœna, the court issuing the same may proceed against such witness, for contempt or otherwise, or bind over such witness to appear at such days and times as may be necessary, and upon default being made in such appearance, may cause the recognizances of such witness to be estreated, and the amount thereof to be sued for and recovered by process of law, in like manner as if such witness were resident within the jurisdiction of the court.

Witnesses confined in a

60. When the attendance of any person confined in the penitentiary or in any other prison or gaol in Canada, or upon

Penitentiary, &c.

upon the limits of any gaol, is required in any court of criminal jurisdiction in any case cognizable therein by indictment, the court before whom such prisoner is required to attend may, or any judge of such court, or of any Superior Court or County Court may, before or during any such term or sitting at which the attendance of such person is required, make an order upon the warden of the penitentiary, or upon the sheriff, gaoler, or other person having the custody of such prisoner, to deliver such prisoner to the person named in such order to receive him, and such person shall at the time prescribed in such order, convey such prisoner to the place at which such person is required to attend, there to receive and obey such further order as to the said court may seem meet

Quaker may make solemn affirmation; form given.

61. Any Quaker, or other person, allowed by law to affirm instead of swearing in civil cases, or solemnly declaring that the taking of any oath is, according to his religious belief, unlawful, who is required to give evidence in any criminal case, shall, instead of taking an oath in the usual form, be permitted to make his solemn affirmation or declaration beginning with the words following, that is to say: "I, A. B., do solemnly, sincerely and truly declare and affirm"; which said affirmation or declaration shall be of the same force and effect as if such Quaker or other person as aforesaid, had taken an oath in the usual form.

Who may be admitted as witnesses.

62. No person offered as a witness shall, by reason of any alleged incapacity from crime or interest, be excluded from giving evidence on the trial of any criminal case, or in any proceeding relating or incidental to such case.

An interest in the question, or a conviction not to disqualify.

63. Every person so offered shall be admitted and be compellable to give evidence on oath, or solemn affirmation where an affirmation is receivable, notwithstanding that such person has or may have an interest in the matter in question, or in the event of the trial in which he is offered as a witness, or of any proceeding relating or incidental to such case, and notwithstanding that such person so offered as a witness, has been previously convicted of a crime or offence.

Cross-examination as to previous statements in writing.

64. Upon any trial, a witness may be cross-examined as to previous statements made by him in writing, or reduced into writing, relative to the subject matter of the case, without such writing being shown to him; but if it is intended to contradict the witness by the writing, his attention must, before such contradictory proof can be given, be called to those parts of the writing which are to be used for the purpose of so contradicting him; and the judge at any time during the trial,

trial, may require the production of the writing for his inspection, and he may thereupon make such use of it for the purposes of the trial as he thinks fit.

Proof of previous conviction of a witness may be given, if he denies it, &c.

65. A witness may be questioned as to whether he has been convicted of any felony or misdemeanor, and upon being so questioned, if he either denies the fact or refuses to answer, the opposite party may prove such conviction, and a certificate, as provided in section twenty-six, shall, upon proof of the identity of the witness, as such convict, be sufficient evidence of his conviction, without proof of the signature or the official character of the person appearing to have signed the certificate.

When attesting witness need not be called.

66. It shall not be necessary to prove by the attesting witness any instrument to the validity of which attestation is not requisite, and such instrument may be proved by admission or otherwise, as if there had been no attesting witness thereto.

Comparison of disputed writing with genuine.

67. Comparison of a disputed writing with any writing proved to the satisfaction of the court to be genuine, shall be permitted to be made by witnesses; and such writings and the evidence of witnesses respecting the same, may be submitted to the court and jury, as evidence of the genuineness or otherwise of the writing in dispute.

How far a party may discredit his own witness.

68. A party producing a witness shall not be allowed to impeach his credit by general evidence of bad character, but in case the witness in the opinion of the court, proves adverse, such party may contradict him by other evidence, or by leave of the court, may prove that the witness made at other times a statement inconsistent with his present testimony; but before such last mentioned proof can be given, the circumstances of the supposed statement, sufficient to designate the particular occasion, must be mentioned to the witness, and he must be asked whether or not he did make such statement.

Proof of contradictory statements by witness.

69. If a witness, upon cross-examination as to a former statement made by him, relative to the subject matter of the case, and inconsistent with his present testimony, does not distinctly admit that he did make such statement, proof may be given that he did in fact make it; but before such proof can be given, the circumstances of the supposed statement, sufficient to designate the particular occasion, must be mentioned to the witness, and he must be asked whether or not he did make such statement.

Variances,

Variances,—Records.

Variances, how corrected.

70. When in the indictment whereon a trial is pending before any court of criminal jurisdiction in Canada, any variance appears between any matter in writing or in print produced in evidence, and the recital or setting forth thereof, such court may cause the indictment to be forthwith amended in such particular or particulars, by some officer of the court, and after such amendment the trial shall proceed in the same manner in all respects, both with regard to the liability of witnessess to be indicted for perjury, and otherwise, as if no such variance had appeared.

Court may order indictment to be amended, to agree with evidence.

71. Whenever on the trial of an indictment for any felony or misdemeanor, any variance appears between the statement in such indictment and the evidence offered in proof thereof, in names, dates, places, or other matters or circumstances therein mentioned, not material to the merits of the case, and by the misstatement whereof the person on trial cannot be prejudiced in his defence on such merits, the court before which the trial is pending may order such indictment to be amended according to the proof, by some officer of the court or other person, both in that part of the indictment where the variance occurs, and in every other part of the indictment which it may become necessary to amend, on such terms as to postponing the trial to be had before the same or another jury as such court thinks reasonable, and if the trial be postponed the court may respite the recognizances of the prosecutor and witnesses and of the defendant and his sureties (if any), in which case they shall respectively be bound to attend at the time and place to which the trial is postponed without entering into new recognizances, and as if such time and place had been mentioned in the recognizances respited, as those at which they were respectively bound to appear.

Conditions may be imposed by the Court.

And the trial afterwards proceeded with.

72. After any such amendment the trial shall proceed, whenever the same is proceeded with, in the same manner and with the same consequences, both with respect to the liability of witnesses to be indicted for perjury and in all other respects, as if no such variance had occurred.

Order for amending recorded.

73. In such case the order for the amendment shall be endorsed on the record, and all other rolls and proceedings connected therewith shall be amended accordingly by the proper officer, and filed with the indictment, among the proper records of the court.

In case of trial before a second jury.

74. When any such trial is had before a second jury, the Crown and the defendant respectively shall be entitled to the

the same challenges as they were entitled to with respect to the first jury.

Verdict, &c., to be valid after amendment.

75. Every verdict and judgment given after the making of any such amendment shall be of the same force and effect in all respects as if the indictment had originally been in the same form in which it is after such amendment has been made.

Formal record how to be drawn up.

76. If it becomes necessary to draw up a formal record in any case where an amendment has been made as aforesaid, such record shall be drawn up in the form in which the indictment remained after the amendment was made, without taking any notice of the fact of such amendment having been made.

Record of conviction or acquittal.

77. In making up the record of any conviction or acquittal on any indictment, it shall be sufficient to copy the indictment with the plea pleaded thereto, without any formal caption or heading, and the statement of the arraignment and the proceedings subsequent thereto, shall be entered of record in the same manner as before the passing of this Act, subject to any such alterations in the forms of such entry, as may from time to time be prescribed by any rule or rules of the Superior Courts of criminal jurisdiction respectively, which rules shall also apply to such inferior courts of criminal jurisdiction as shall be therein designated.

Formal defects cured after verdict.

What defects not to vitiate an indictment after verdict or conviction by confession or otherwise.

78. No judgment upon any indictment for any felony or misdemeanor whether after verdict or outlawry, or by confession, default or otherwise, shall be stayed or reversed for want of the averment of any matter unnecessary to be proved, nor for the omission of the words "as appears by the record," or of the words "with force and arms," or of the words "against the peace," nor for the insertion of the words "against the form of the Statute," instead of the words, "against the form of the Statutes," or *vice versâ*, or the omission of such words or words of like import, nor for that any person mentioned in the indictment is designated by a name of office or other descriptive appellation, instead of his proper name, nor for want of or any imperfections in the addition of any defendant or other person, nor for omitting to state the time at which the offence was committed in any case where time is not of the essence of the offence, nor for stating the time imperfectly, nor for stating the offence to have been committed on a day subsequent to the finding of the indictment, or exhibiting the information, or on an impossible day, or on a day that never happened, nor for want of the statement of the value

value or price of any matter or thing, or the amount of damage, injury or spoil, in any case where such value, price, damage, injury or spoil, is not of the essence of the offence, nor for the want of a proper or perfect venue, where the court appears by the indictment to have had jurisdiction over the offence.

Certain formal defects not to stay or reverse judgment after verdict.

79. Judgment, after verdict upon an indictment for any felony or misdemeanor, shall not be stayed or reversed for want of a similiter, nor by reason that the jury process has been awarded to a wrong officer, upon an insufficient suggestion, nor for any misnomer or misdescription of the officer returning such process, or of any of the jurors, nor because any person has served upon the jury who was not returned as a juror by the sheriff or other officer; and where the offence charged is an offence created by any statute, or subjected to a greater degree of punishment by any statute, the indictment shall, after verdict, be held sufficient, if it describes the offence in the words of the statute creating the offence, or prescribing the punishment, although they be disjunctively stated or appear to include more than one offence, or otherwise.

Appeal and New Trial.

Laws of Ontario and Quebec amended as regards new trials, and appeals in criminal cases.

80. So much of the chapter thirteen or of chapter one hundred and thirteen of the Consolidated Statutes for Upper Canada, as allows any appeal to the Court of Error and Appeal, in any criminal case where the conviction has been affirmed by either of the Superior Courts of Common law, on any question of law reserved for the opinion of such court, is hereby repealed as regards any conviction had after this Act is in force, and the judgment of such Superior Court on any question so reserved shall be final and conclusive; and so much of chapter one hundred and thirteen of the said Consolidated Statutes, or of chapter seventy-seven of the Consolidated Statutes for Lower Canada, or of any other Act, as would authorize any court in the Province of Ontario or Quebec, to order or grant a new trial in any criminal case, shall be and so much of any of the said Acts is hereby repealed, as regards any conviction had after the coming into force of this Act; and no writ of error shall be allowed in any criminal case unless it be founded on some question of law which could not have been reserved, or which the judge presiding at the trial refused to reserve for the consideration of the court having jurisdiction in such cases; but nothing in this section shall be construed to prevent the subsequent trial of the offender for the same offence, in any case where the conviction is declared bad for any cause which makes the former trial a nullity, so that there was no lawful trial in the case.

Proviso.

Punishments,

Punishments, Penitentiary, &c.

Pillory abolished.

81. The punisment of the pillory shall not be awarded by any court.

Persons convicted on confession, &c.

82. Any person indicted for any offence made capital by any statute, shall be liable to the same punishment, whether he be convicted by verdict or confession, and this, as well in the case of accessories as of principals.

Second conviction for felony.

83. If any person be convicted of felony not punishable with death, committed after a previous conviction for felony, such person shall, on subsequent conviction, be imprisoned in the penitentiay for life or for any term not less than two years, or be imprisoned in any other gaol or place of confinement for any term less than two years, with or without hard labour, unless some other punishment be directed by any statute for the particular offence, in which case the offender shall be liable to the punishment thereby awarded, and not to any other.

Punishment of persons convicted of escape or felonious rescue, &c.

84. Whosoever escapes from or rescues, or aids in rescuing any other person from lawful custody, or makes or causes any breach of prison, if such offence does not amount to felony, is guilty of misdemeanor, and shall be liable to be imprisoned in any gaol or place of confinement for any period less than two years ;—and whosoever is convicted of a felonious rescue, shall in any case where no special punishment is provided by any statute, be liable to be imprisoned in the penitentiary for any term not exceeding seven years, and not less than two years, or to be imprisoned in any other gaol or place of confinement for any term less than two years, with or without hard labour, and with or without solitary confinement.

Unlawfully procuring discharge of prisoner.

85. Whosoever knowingly and unlawfully, under colour of any pretended authority, directs or procures the discharge of any prisoner not entitled to be so discharged, is guilty of misdemeanor and shall be liable to be imprisoned in any gaol or place of confinement for any period less than two years, and the person so discharged shall be held to have escaped.

Punishment for fraud or cheating.

86. Whosoever is convicted of fraud or of cheating or of conspiracy, shall, in any case where no special punishment is provided by any statute, be liable to be imprisoned in the penitentiary for any term not exceeding seven years, and not less than two years, or to be imprisoned in any other gaol or place of confinement for any term less than two years, with or without hard labour, and with or without solitary confinement.

87.

Prisoners escaping, how punished.

87. Any person escaping from imprisonment shall, on being retaken, undergo in the prison he escaped from, the remainder of his term unexpired at the time of his escape, in addition to the punishment which may be awarded for such escape.

Felony not punishable with death, how punishable.

88. Every person convicted of felony not punishable with death shall be punished in the manner (if any) prescribed by the statute or statutes especially relating to such felony; and every person convicted of any felony for which no punishment is specially provided, shall be liable to be imprisoned in the penitentiary for life or for any term not less than two years, or in any other gaol or place of confinement for any term less than two years, with or without hard labour, and with or without solitary confinement.

When length of imprisonment is at discretion of the Court.

89. When an offender is by law liable to be punished by imprisonment for life or for an indefinite term of years, the length of any such term shall be in the discretion of the court passing sentence upon the person convicted; and when so liable for a term not exceeding a certain number of years, the length of such term shall likewise be in the discretion of the court, within such limits (if any) as are prescribed by any statute in that behalf.

When length of imprisonment and amount of fine are at the discretion of the Court.

90. When imprisonment is to be awarded for any offence, and no definite period is fixed by law, the term of such imprisonment shall always be in the discretion of the court passing the sentence; and when a fine is to be awarded for any offence and no amount is fixed, the amount shall be in the discretion of the court passing the sentence.

Commencement of term of imprisonment.

91. The period of imprisonment in pursuance of any sentence shall commence on and from the day of passing such sentence, but no time, during which the convict may be out on bail, shall be reckoned as part of the term of imprisonment to which he is sentenced.

If a person under sentence for any other crime be convicted of felony, &c.

92. Whenever sentence is passed for felony on a person already imprisoned under sentence for another crime, the court may award imprisonment for the subsequent offence to commence at the expiration of the imprisonment to which such person has been previously sentenced; and where such person is already under sentence of imprisonment, the court may award sentence for the subsequent offence, to commence at the expiration of the imprisonment for which such person has been previously sentenced, although the aggregate term of imprisonment may exceed the term for which such punishment could otherwise have been awarded, and such subsequent

sequent imprisonment, if for any term not less than two years, shall be in the penitentiary.

Imprisonment elsewhere than in the Penitentiary.

93. When the sentence of imprisonment is for a term less than two years, such imprisonment shall, if no other place be expressly mentioned, be in the common gaol of the district, county or place in which the sentence is pronounced, or if there be no common gaol there, then in that common gaol which is nearest to such locality, or in some lawful prison or place of confinement other than the penitentiary, in which the sentence may be lawfully executed.

Imprisonment in other places of confinement.

Solitary confinement.

94. When a person has been convicted of an offence for which imprisonment other than in the penitentiary may be awarded, then the court may sentence the offender to be imprisoned, or if hard labour be part of the punishment, to be imprisoned and kept to hard labour in the common gaol, or other place of confinement, and if solitary confinement be part of the punishment, may also direct that the offender shall be kept in solitary confinement, for a portion or for portions of the term of such imprisonment, not exceeding one month at any one time, and not exceeding three months in any one year.

Whipping.

95. Whenever whipping may be awarded for any indictable offence, the court may sentence the offender to be once or oftener (but not more than three times) whipped within the limits of the prison under the supervision of the medical officer of the prison; and the number of the strokes, and the instrument with which they shall be inflicted, shall be specified by the court in the sentence.

Penitentiaries

Proviso.

96. Each of the penitentiaries in Canada shall be maintained as a prison for the confinement and reformation of persons, male and female, lawfully convicted of crime before the Courts of Criminal Jurisdiction of that Province for which it is appointed to be the penitentiary, and sentenced to confinement for life or for a term not less than two years; and whenever any offender is punishable by imprisonment, such imprisonment, if it be for life or for two years or any longer term, shall be in the penitentiary; but this shall not prevent the reception and imprisonment in any penitentiary of any prisoner sentenced for any period of time by any military, naval or militia court martial, or by any military or naval authority under any Mutiny Act, or of any prisoner sentenced in New Brunswick or Nova Scotia, to imprisonment with hard labour for less than two years.

Sentence to Penitentiary

97. The sentence of any person to be imprisoned in the penitentiary shall (whether expressed or not) include hard labour,

to include hard labour.

labour, and the offender so sentenced shall be subject to the discipline and regulations of the penitentiary, prescribed or made by lawful authority under any statute inthat behalf.

Reformatory Prisons.

Juvenile offenders may be sent to Reformatory Prison.

98. Provided always, that the court before which any offender whose age at the time of his trial, does not in the opinion of the court exceed sixteen years, is convicted, whether summarily or otherwise, of any offence punishable by imprisonment for not more than five years nor less than six months, may, in its discretion, sentence such offender to imprisonment in the reformatory prison (if any,) in the Province in which such conviction takes place, and such imprisonment shall in such case be substituted for the imprisonment in the penitentiary or other place of confinement, by which the offender would otherwise be punishable under any Act or law relating thereto, which shall be construed subject to this provision.

Insane Prisoners.

Jury acquitting prisoner on ground of insanity, to state so in their verdict.

99. In all cases where it is given in evidence upon the trial of any person charged with any offence, whether the same be treason, felony or misdemeanor, that such person was insane at the time of the commission of such offence, and such person is acquitted, the jury shall be required to find specially whether such person was insane at the time of the commission of such offence, and to declare whether he is acquitted by them on account of such insanity; and if they find that such person was insane at the time of committing such offence, the court before whom such trial is had, shall order such person to be kept in strict custody in such place and in such manner as to the court seems fit, until the pleasure of the Lieutenant-Governor be known.

Lt.-Governor may order such person to be kept in safe custody.

100. The Lieutenant-Governor of the Province in which the case occurs may thereupon give such order for the safe custody of such person during his pleasure, in such place and in such manner as to him seems fit.

Lt.-Governor may give like order in certain other cases.

101. In all cases where any person, before the passing of this Act, has been acquitted of any such offence on the ground of insanity at the time of the commission thereof, and has been detained in custody as a dangerous person by order of the court before whom such person was tried, and still remains in custody, the Lieutenant-Governor may give the like order for the safe custody of such person during pleasure, as he is hereby enabled to give in the case of persons acquitted under the ninety-ninth section of this Act, on the ground of insanity.

102.

Similar provisions with respect to persons indicted for any offence, and found to be insane by a jury.

102. If any person indicted for any offence be insane, and upon arraignment be so found by a jury empannelled for that purpose, so that such person cannot be tried upon such indictment, or if, upon the trial of any person so indicted, such person appears to the jury charged with the indictment to be insane, the court, before whom such person is brought to be arraigned, or is tried as aforesaid, may direct such finding to be recorded, and thereupon may order such person to be kept in strict custody until the pleasure of the Lieutenant-Governor be known.

If jury find such person insane, Court may direct such person to be kept in safe custody.

103. If any person charged with an offence be brought before any court to be discharged for want of prosecution, and such person appears to be insane, the court shall order a jury to be empannelled to try the sanity of such person, and if the jury so empannelled find him to be insane, the court shall order such person to be kept in strict custody, in such place and in such manner as to the court seems fit, until the pleasure of the Lieutenant-Governor be known.

In such cases Lt.-Governor may give orders, &c.

104. In all cases of insanity so found, the Lieutenant-Governor may give such order for the safe custody, during pleasure, of the person so found to be insane, in such place and in such manner as to him seems fit.

Persons becoming insane while in prison.

105. The Lieutenant-Governor, upon the certificate of two Justices of the Peace, and two duly licensed medical practitioners, that any person imprisoned for an offence is insane, may order his removal to a place of safe keeping, there to remain until his sanity shall be certified to the satisfaction of the Lieutenant-Governor, who may then order him back to imprisonment, if then liable thereto, or otherwise to be discharged.

Capital Punishment, Execution of.

Court to direct execution of sentence.

106. Whenever any offender has been convicted before any court of criminal jurisdiction, of an offence for which such offender is liable to and receives sentence of death, the court shall order and direct execution to be done on the offender in the manner provided by law

Report of case by the Judge unnecessary.

Reprieve in certain cases.

107. In the case of any prisoner sentenced to the punishment of death, it shall not be necessary for the judge, before whom such prisoner has been convicted, to make any report of the case previously to the sentence being carried into execution, but if the judge thinks such prisoner ought to be recommended for the exercise of the royal mercy, or if from the non-decision of any point of law reserved in the case, or from any other cause, it becomes necessary to delay the execution,

execution, he, or any other judge of the same court, or who might have held or sat in such court, may, from time to time, either in term or in vacation, reprieve such offender for such period or periods beyond the time fixed for the execution of the sentence as may be necessary for the consideration of the case by the Crown.

Treatment of persons condemned.

108. Every person sentenced to suffer death shall, after judgment, be confined in some safe place within the prison, apart from all other prisoners, and no person but the gaoler and his servants, the medical officer or surgeon of the prison, a chaplain or a minister of religion, shall have access to any such convict, without the permission, in writing, of the court or judge before whom such convict has been tried, or of the sheriff.

Judgment to be executed within walls of prison.

109. Judgment of death to be executed on any prisoner after the coming into force of this Act, shall be carried into effect within the walls of the prison in which the offender is confined at the time of execution.

Sheriff, &c. to be present.

110. The sheriff charged with the execution, and the gaoler and medical officer or surgeon of the prison, and such other officers of the prison and such persons as the sheriff requires shall be present at the execution.

Justices of the Peace, &c., may be present.

111. Any Justice of the Peace for the district, county or place to which the prison belongs, and such relatives of the prisoner or other persons as it seems to the sheriff proper to admit within the prison for the purpose, and any minister of religion who may desire to attend, may also be present at the execution.

Surgeon to certify death.

112. As soon as may be after judgment of death has been executed on the offender, the medical officer or surgeon of the prison shall examine the body of the offender, and shall ascertain the fact of death, and shall sign a certificate thereof, and deliver the same to the sheriff.

Declaration to be signed by Sheriff, &c.

113. The sheriff and the gaolor of the prison, and such justices and other persons present (if any) as the sheriff requires or allows, shall also sign a declaration to the effect that judgment of death has been executed on the offender.

Deputies may act.

114. The duties imposed upon the sheriff, gaoler, medical officer or surgeon by the four next preceding sections, may and shall in his absence be performed by his lawful deputy or assistant, or other officer or person ordinarily acting for him, or conjointly with him, in the performance of his duties.

115.

Coroner's inquest on body.

115. A coroner of the district, county or place to which the prison belongs, wherein judgment of death is executed on any offender, shall, within twenty-four hours after the execution, hold an inquest on the body of the offender, and the jury at the inquest shall inquire into and ascertain the identity of the body, and whether judgment of death was duly executed on the offender; and the inquisition shall be in duplicate, and one of the originals shall be delivered to the sheriff.

Officers not to be jurors.

116. No officer of the prison or prisoner confined therein shall, in any case, be a juror on the inquest.

Burial of body.

117. The body of every offender executed shall be buried within the walls of the prison within which judgment of death is executed on him, unless the Lieutenant-Governor in Council being satisfied that there is not, within the walls of any prison, sufficient space for the convenient burial of offenders executed therein, permits some other place to be used for the purpose.

Governor in Council to make Rules, &c., as to executions.

118. The Governor in Council may, from time to time make such rules and regulations to be observed on the execution of judgment of death in every prison, as he may from time to time deem expedient for the purpose, as well of guarding against any abuse in such execution, as also of giving greater solemnity to the same, and of making known without the prison walls the fact that such execution is taking place.

Such Rules to be laid before Parliament.

119. All such rules and regulations shall be laid upon the tables of both Houses of Parliament within six weeks after the making thereof, or if Parliament be not then sitting, within fourteen days after the next meeting thereof.

Penalty for signing false certificate.

120. If any person knowingly and wilfully signs any false certificate or declaration required with respect to any execution, he shall be guilty of a misdemeanor, and on conviction thereof shall be liable, at the discretion of the court, to imprisonment for any term less than two years, with or without hard labour, and with or without solitary confinement.

Certificate, &c., to be sent to Secretary of State, and exhibited at entrance to prison.

121. Every certificate and declaration, and a duplicate of the inquest required by this Act, shall in each case be sent with all convenient speed by the sheriff to the Secretary of State of Canada, or to such other officer as may from time to time be appointed for the purpose by the Governor in Council, and printed copies of the same several instruments shall, as soon as possible, be exhibited, and shall, for twenty-four

hours at least, be kept exhibited, on or near the principal entrance of the prison within which judgment of death is executed.

Forms in schedule B. to be used.

122. The forms given in the Schedule B to this Act, with such variations or additions as circumstances require, shall be used for the respective purposes in that schedule indicated, and according to the directions therein contained.

Saving clause as to legality of execution.

123. The omission to comply with any provision of the next preceding fourteen sections of this Act shall not make the execution of judgment of death illegal in any case where such execution would otherwise have been legal.

General provisions.

124. Except in so far as is hereby otherwise provided, judgment of death shall be carried into effect in the same manner as if the said fourteen sections had not been passed.

Pardons.

Pardon when party is committed for non-payment of moneys.

125. The Crown may extend the Royal mercy to any person sentenced to imprisonment by virtue of any statute, although such person be imprisoned for non-payment of money to some party other than the Crown.

Effect of pardon.

126. When the Crown is pleased to extend the Royal mercy to any offender convicted of a felony punishable with death or otherwise, and by warrant under the Royal Sign Manual, countersigned by one of the principal Secretaries of State, or by warrant under the hand and seal at arms of the Governor General, grants to such offender either a free or conditional pardon, the discharge of such offender out of custody, in case of a free pardon, and the performance of the condition in the case of a conditional pardon, shall have the effect of a pardon under the Great Seal, of such offender, as to the felony for which such pardon has been granted; but no free pardon, nor any discharge in consequence thereof, nor any conditional pardon, nor the performance of the condition thereof, in any of the cases aforesaid, shall prevent or mitigate the punishment to which the offender might otherwise be lawfully sentenced, on a subsequent conviction for any felony or offence other than that for which the pardon was granted.

Governor may commute sentence of death.

127. The Crown may commute the sentence of death passed upon any person convicted of a capital crime, to imprisonment in the penitentiary for life, or for any term of years not less than two years, or to imprisonment in any other gaol or place of confinement for any period less than two years, with or without hard labour, and with or without solitary confinement; and an instrument under the hand and seal

Form and

seal at arms of the Governor General declaring such commutation of sentence, or a letter or other instrument under the hand of the Secretary of State of Canada or for the Provinces, or the lawful deputy of either shall be sufficient authority to any of Her Majesty's judges or justices, having jurisdiction in such cases, or to any sheriff or officer to whom such letter or instrument is addressed, to give effect to such commutation, and to do all such things and to make such orders, and to give such directions, as may be requisite for the change of custody of such convict, and for his conduct to and delivery at such gaol or place of confinement, or penitentiary, and his detention therein, according to the terms on which his sentence has been commuted. Effect of commutation.

Undergoing sentence, equivalent to a pardon.

128. When any offender has been convicted of a felony not punishable with death, and has endured the punishment to which such offender was adjudged, or if such felony be punishable with death and the sentence has been commuted, then if such offender has endured the punishment to which his sentence was commuted, the punishment so endured shall, as to the felony whereof the offender was so convicted, have the like effects and consequences as a pardon under the Great Seal; but nothing herein contained, nor the enduring of such punishment, shall prevent or mitigate any punishment to which the offender might otherwise be lawfully sentenced, on a subsequent conviction for any other felony. Undergoing sentence equivalent to a pardon. Proviso.

129. Nothing in this Act shall or doth in any manner limit or affect Her Majesty's Royal prorogative of mercy. Royal prerogative saved.

Limitation of Actions and prosecutions.

130. All actions and prosecutions to be commenced against any person for anything purporting to be done in pursuance of any Act of the Parliament of Canada relating to Criminal Law, shall, unless otherwise provided for, be laid and tried in the district, county, or place where the fact was committed, and must be commenced within six months next after the fact committed, and not otherwise. Limitation of actions and prosecutions.

131. Notice in writing of such action and of the cause thereof, must be given to the defendant one month at least before the commencement of the action. Notice to defendant.

132. In any such action the defendant may plead the general issue, and give this Act and the special matter in evidence at any trial thereupon. General issue.

133.

In case of tender of sufficient amends.

133. No plaintiff shall recover in any such action, if tender of sufficient amends be made, before such action brought, or if a sufficient sum of money be paid into court after such action brought, by or on behalf of the defendant.

Recovery of costs.

134. If a verdict passes for the defendant, or the plaintiff becomes non-suit, or discontinues any such action after issue joined, or if, upon demurrer or otherwise, judgment be given against the plaintiff, the defendant shall recover his full costs as between attorney and client, and shall have the like remedy for the same as any defendant hath by law in other cases, and though a verdict or judgment be given for the plaintiff in any such action, such plaintiff shall not have costs against the defendant, unless the judge, before whom the trial shall be, certifies his approval of the action.

Protection of Justices of the Peace, &c.

135. Nothing in the next five preceding sections shall prevent the effect of any Act in force in any province of Canada, for the protection of Justices of the Peace or other officers from vexatious actions for things purporting to be done in the performance of their duty.

General Provisions.

Offences committed within the jurisdiction of the Admiralty.

136. When any felony, punishable under the laws of Canada, has been committed within the jurisdiction of any Court of Admiralty in Canada, the same may be dealt with, inquired of and tried and determined in the same manner as any other felony committed within that jurisdiction.

Laws relating to Army and Navy not affected.

137. Nothing contained in this Act shall alter or affect any of the laws relating to the government of Her Majesty's land or naval forces.

Commencement of Act.

138. This Act shall commence and take effect on the first day of January, one thousand eight hundred and seventy.

SCHEDULE A.

FORMS OF INDICTMENT REFERRED TO IN SECTION TWENTY-SEVEN.

Murder.

County (*or* District) of , to wit: } The jurors for our Lady the Queen, upon their oath present, that A. B., on the day of in the year of our Lord, one thousand eight hundred and , at in the County (*or* District) of did feloniously, wilfully, and of his malice aforethought, kill and murder one C. D.

Manslaughter.

Manslaughter.

County (*or* District) } *Same as last form, omitting* "wilfully,
of , to wit: } and of malice aforethought," *and substituting the word* "slay" *for the word* "murder."

Bodily Harm.

County (*or* District) } The jurors for our Lady the Queen,
of , to wit: } upon their oath present, that J. B., on the day of , at did feloniously administer to, (*or* cause to be taken by) one A. B., poison (or other destructive thing) and did thereby cause bodily harm to the said A. B., with intent to kill the said A. B., (*or* C. D.)

Rape.

County (*or* District) } The jurors for our Lady the Queen,
of , to wit: } upon their oath present that A. B., on the day of , at , by force and against her will, feloniously ravished and carnally knew C. D., a woman above the age of *twelve* years.

Simple Larceny.

County (*or* District } The jurors for our Lady the Queen,
of , to wit: } upon their oath present, that A. B., on the day of , at , did feloniously steal a *gold watch*, the property of C. D.

Robbery.

County (*or* District) } The jurors for our Lady the Queen,
of , to wit: } upon their oath present that A. B., on the day of , at , did feloniously rob C. D., (and at the time of, or immediately before or after such robbery, (*if the case be so*), did cause grievous bodily harm to the said C. D.), (*or to any person naming him*).

Burglary.

County (*or* District) } The jurors for our Lady the Queen,
of , to wit: } upon their oath present that A. B., on the day of , at , did feloniously break into and enter the dwelling house of C. D., in the night time, with intent to commit a felony therein, (*or as the case may be.*)

Stealing

Stealing Money.

County (*or* District) of , to wit: } The jurors for our Lady the Queen, upon their oath present that A. B., on the day of , at , did feloniously steal a certain sum of money, to wit, to the amount of dollars, the property of one C. D., (*or as the case may be.*)

Embezzlement.

County (*or* District) of , to wit: } The jurors for our Lady the Queen, upon their oath present, that A. B., on the day of , at , being a servant (*or* clerk) then employed in that capacity by one C. D., did then and there in virtue thereof, receive a certain sum of money, to wit, to the amount of for and on account of the said C D., and the said money did feloniously embezzle.

False Pretences.

County (*or* District) of , to wit: } The jurors for our Lady the Queen, on their oath present that A. B., on the day of , at , unlawfully, fraudulently and knowingly by false pretences, did obtain from one C. D., *six yards of muslin*, of the goods and chattels of the said C. D., with intent to defraud.

Offences Against the Habitation.

County (*or* District) of , to wit: } The jurors for our Lady the Queen, upon their oath present, that A. B., o the day of , at , did feloniousl and maliciously set fire to the dwelling house of C. D., the said C. D., (*or some other person by name, or if the name be unknown*, some person) being therein.

Malicious Injuries to Property.

County (*or* District) of , to wit: } The jurors for our Lady the Queen, upon their oath present, that A. B., on the day of , at , did feloniously and maliciously set fire, or attempt to set fire to a certain building or erection, that is to say, (a house *or* barn, *or* bridge, *or as the case may be*) the property of one C. D.,) *or as the case may be*).

Forgery.

County (*or* District) of , to wit: } The jurors for our Lady the Queen upon their oath present, that A. B., on the day of , at , did feloniously forge (*or*

(*or* utter, knowing the same to be forged) a certain *promissory note*, *&c.*, (*or* clandestinely and without the consent of the owner, did make an *alteration* in a certain written instrument with intent to defraud, *or as the case may be.*)

Coining.

County (*or* District) of , to wit: } The jurors for our Lady the Queen, on their oath present, that A. B., on the day of , at , did feloniously counterfeit a gold coin of the United Kingdom, called a *sovereign*, current by law in Canada, with intent to defraud, *or* had in his possession a counterfeit of a gold coin of the United Kingdom, called a *sovereign*, current by law in Canada, knowing the same to be counterfeit, and with intent to defraud by uttering the same.

Perjury.

County (*or* District) of , to wit: } The jurors for our Lady the Queen, upon their oath present, that heretofore to wit, at the (*Assizes*) holden for the county (*or* District) of , on the day of , in the year of our Lord one thousand eight hundred and , before , (*one of the judges of our Lady the Queen,*) a certain issue between one E. F., and one J. H. in a certain action of *covenant*, was tried, upon which trial A. B. appeared as a witness for and on behalf of the said E. F., and was then and there duly *sworn* before the said and did then and there, upon his *oath* aforesaid, falsely, wilfully and corruptly depose and *swear* in substance and to the effect following, "*that he saw the said G. H. duly execute the deed on which the said action was brought*," whereas, in truth, the said A. B. did not see the said G. H. execute the said deed, and the said deed was not executed by the said G. H., and the said A. B. did thereby commit wilful and corrupt perjury.

Subornation of Perjury.

County (*or* District) of , to wit: } *Same as last form to the end, and then proceed*:—And the jurors further present, that before the committing of the said offence by the said A. B., to wit, on the day of , at , C. D., unlawfully, wilfully and corruptly did cause and procure the said A. B. to do and commit the said offence in manner and form aforesaid.

Offences against the Public Peace.

County (*or* District) of , to wit: } The jurors for our Lady the Queen, upon their oath present, that A. B., on the

the day of , at , with *two* or more persons, did riotously and tumultuously assemble together to the disturbance of the public peace, and with force did demolish, pull down, or destroy, (*or* attempt or begin to demolish &c.,) a certain building or erection of C. D.

Offences against the Administration of Justice.

County (*or* District) of , to wit; } The jurors for our Lady the Queen, upon their oath present, that A. B. on the day of , at did corruptly take or receive money under pretence of helping C. D. to a chattel, (*or* money, &c.,) that is to say, a horse, (*or* five dollars, *or* a note, *or* a carriage,) which had been stolen, (*or as the case may be.*)

Bigamy or Offences against the Law for the Celebration of Marriage.

County (*or* District) of , to wit: } The jurors for our Lady the Queen, upon their oath present, that A. B., on the day of , at , being then married, did feloniously marry C. D. during the lifetime of the wife of the said A. B.—(*or* not being duly authorized, did celebrate (*or* assist in the celebration of,)a marriage between C. D. and E. F.,—*or* being duly authorized to marry, did celebrate marriage between C. D. and E. F. before proclamation of banns according to law, *or* without a license for such marriage under the hand and seal of the Governor).

Offences relating to the Army.

County (*or* District) of , to wit: } The jurors for our Lady the Queen, upon their oath present, that A. B. on the day of , at , did solicit (*or* procure) a soldier to desert the Queen's service, (*or as the case may be*).

Offences against Public Morals and Decency.

County (*or* District) of , to wit: } The jurors of our Lady the Queen, upon their oath present, that A. B. on the day of , at , did keep a common gaming, bawdy *or* disorderly house (*or* rooms).

General Form.

County (*or* District) of to wit: } The Jurors for our Lady the Queen, upon their oath present, that A. B., on the day of , at , did (*here describe the offence in the terms in which it is described in the law, or state such facts as constitute the offence intended to be charged, and if the offence be felony state the act to have been done feloniously.*

SCHEDULE

SCHEDULE B.

Certificate of Surgeon—See Section 122.

I, A.B., surgeon (*or as the case may be*) of the (*describe the prison*), hereby certify that I, this day, examined the body of C.D., on whom judgment of death was this day executed in the said prison; and that on such examination I found that the said C.D. was dead.

(Signed,) A. B.

Dated this day of 18 .

Declaration of Sheriff and others—See Section 122.

We, the undersigned, hereby declare that judgment of death was this day executed on C.D., in the (*describe the prison*) in our presence.

Dated this day of 18 .

E. F., Sheriff of——
L. M., Justice of the Peace for——
G. H., Gaoler of——
&c., &c.

CHAP. 30.

An Act respecting the duties of Justices of the Peace, out of Sessions, in relation to persons charged with Indictable Offences.

[*Assented to 22nd June*, 1869.]

Preamble.

WHEREAS it is expedient to assimilate, amend and consolidate the statute laws of the several Provinces of Quebec, Ontario, Nova Scotia and New Brunswick, respecting the duties of Justices of the Peace out of sessions in relation to persons charged with indictable offences, and to extend the same as so consolidated to all Canada: Therefore, Her Majesty, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows:—

For what offences a Justice of the Peace may grant a warrant to cause a person charged therewith to be brought before him.

1. In all cases where a charge or complaint (A) is made before any one or more of Her Majesty's Justices of the Peace for any territorial division in Canada, that any person has committed, or is suspected to have committed, any treason or felony, or any indictable misdemeanor or offence within the limits of the jurisdiction of such Justice or Justices of the Peace, or that any person guilty or suspected to be guilty of having committed any such crime or offence elsewhere out of the jurisdiction

jurisdiction of such justice or justices, is residing or being, or is suspected to reside or be within the limits of the jurisdiction of such justice or justices, then, and in every such case, if the person so charged or complained against is not in custody, such Justice or Justices of the Peace may issue his or their warrant (B) to apprehend such person, and to cause him to be brought before such justice or justices, or any other justice or justices for the same territorial division.

In what cases the party may be summoned instead of issuing a warrant in the first instance.

2. In all cases the justice or justices to whom the charge or complaint is preferred, instead of issuing in the first instance his or their warrant to apprehend the person charged or complained against, may, if he or they think fit, issue his or their summons (C) directed to such person, requiring him to appear before the justice or justices, at the time and place to be therein mentioned, or before such other justice or justices of the same territorial division as may then be there, and if, after being served with the summons in manner hereinafter mentioned, he fails to appear at such time and place, in obedience to such summons, the justice or justices, or any other Justice or Justices of the Peace for the same territorial division, may issue his or their warrant (D) to apprehend the person so charged or complained against, and cause such person to be brought before him or them, or before some other Justice or Justices of the Peace for the same territorial division, to answer to the charge or complaint, and to be further dealt with according to law; but any Justice or Justices of the Peace may, if he or they see fit, issue the warrant hereinbefore first mentioned, at any time before or after the time mentioned in the summons for the appearance of the accused party.

Warrant if summons is disobeyed.

Proviso.

As to indictable offences committed on the high seas, &c.

3. In all cases of indictable offences committed on the high seas, or in any creek, harbour, haven or other place, in which the admiralty of England have or claim to have jurisdiction, and in all cases of offences committed on land beyond the seas for which an indictment may be preferred or the offender may be arrested in Canada, any one or more justice or justices for any territorial division in which any person charged with having committed, or being suspected to have committed any such offence, shall be or be suspected to be, may issue his or their warrant (D 2) to apprehend such person, to be dealt with as therein and hereby directed.

Warrant to apprehend party against whom an indictment is found.

4. In case an indictment be found by the grand jury in any court of criminal jurisdiction, against any person then at large, and whether such person has been bound by any recognizance to appear to answer to any such charge or not, and in case such person has not appeared and pleaded to the indictment,

indictment, the person who acts as Clerk of the Crown or chief clerk of such court shall, at any time at the end of the term or sittings of the court, at which the indictment has been found, upon application of the prosecutor, or of any person on his behalf, and on payment of a fee of twenty cents, grant to such prosecutor or person a certificate (F) of such indictment having been found; and upon production of such certificate to any Justice or Justices of the Peace for the territorial division in which the offence is in the indictment alleged to have been committed, or in which the person indicted resides, or is supposed or suspected to reside or be, such justice or justices shall issue his or their warrant (G) to apprehend the person so indicted, and to cause him to be brought before such justice or justices or any other justice or justices for the same territorial division, to be dealt with according to law.

Commitment, or bail.

5. If the person be thereupon apprehended and brought before any such justice or justices, such justice or justices, upon its being proved upon oath or affirmation before him or them that the person so apprehended is the person charged and named in the indictment, shall, without further inquiry or examination, commit (H) him for trial or admit him to bail in manner hereinafter mentioned.

If person indicted be already in prison for some other offence, Justice may order him to be detained until removed by writ of *habeas corpus*, or otherwise, or discharged.

6. If the person so indicted is confined in any gaol or prison for any other offence than that charged in the indictment at the time of such application and production of such certificate to the justice or justices, such justice or justices, upon its being proved before him or them upon oath or affirmation, that the person so indicted and the person so confined in prison are one and the same person, shall issue his or their warrant (I) directed to the gaoler or keeper of the gaol or prison in which the person so indicted is then confined, commanding him to detain such person in his costody until, by Her Majesty's writ of habeas corpus, or by order of the proper court he be removed therefrom for the purpose of being tried upon the said indictment, or until he be otherwise removed or discharged out of his costody by due course of law.

Not to prevent Bench Warrant.

7. Nothing in this Act contained shall prevent the issuing or execution of bench warrants, whenever any court of competent jurisdiction thinks proper to order the issuing of any such warrant.

Warrant may be issued on Sunday.

8. Any Justice or Justices of the Peace may grant or issue any warrant as aforesaid, or any search warrant, on a Sunday as well as on any other day.

9.

If a warrant is to be issued, information to be upon oath, &c.

9. In all cases when a charge or complaint for any indictable offence is made before any justice or justices, if it be intended to issue a warrant in the first instance against the party charged, an information and complaint thereof (A) in writing, on the oath or affirmation of the informant, or of some witness or witnesses in that behalf, shall be laid before such justice or justices.

And so in case of summons, unless otherwise provided.

10. When it is intended to issue a summons instead of a warrant in the first instance, the information and complaint shall also be in writing, and be sworn to or affirmed in manner aforesaid, except only in cases where by some Act or law it is specially provided that the information and complaint may be by parole merely, and without any oath or affirmation to support or substantiate the same.

No objection allowed for alleged defect.

11. No objection shall be taken or allowed to any information and complaint for any alleged defect therein in substance or in form, or for any variance between it and the evidence adduced on the part of the prosecution, before the justice or justices who take the examination of the witnesses in that behalf.

In what cases Justice may grant a warrant to search dwelling-houses, &c.

12. If a credible witness proves upon oath (E 1) before a Justice of the Peace, that there is reasonable cause to suspect that any property whatsoever, on or with respect to which any larceny or felony has been committed, is in any dwelling house, outhouse, garden, yard, croft or other place or places, the justice may grant a warrant (E 2) to search such dwelling house, garden, yard, croft or other place or places for such property, and if the same, or any part thereof be then found, to bring the same and the person or persons in whose possession such house or other place then is, before the justice granting the warrant, or some other justice for the same territorial division.

Upon complaint, Justice may issue Summons or Warrant for appearance of party charged.

13. Upon information and complaint as aforesaid, the justice or justices receiving the same may, if he or they think fit, issue his or their summons or warrant as hereinbefore directed, to cause the person charged to be and appear as therein and thereby directed; and every summons (C) shall be directed to the party so charged by the information, and shall state shortly the matter of such information, and shall require the party to whom it is directed to be and appear at a certain time and place therein mentioned, before the justice who issues the summons, or before such other Justice or Justices of the Peace for the same territorial division as may then be there, to answer to the charge, and to be further dealt with according to law.

How summons to be served.

14. Every such summons shall be served by a constable or other peace officer upon the person to whom it is directed, by delivering the same to the party personally, or if he cannot conveniently be met with, then by leaving the same for him with some person at his last or usual place of abode.

Constables, &c., to attend and prove service.

15. The constable or other peace officer who serves the same shall attend at the time and place, and before the justice or justices in the summons mentioned, to depose, if necessary, to the service of the summons.

If party summoned does not attend, Justice may issue a warrant.

16. If the person served does not appear before the justice or justices, at the time and place mentioned in the summons, in obedience to the same, the justice or justices may issue his or their warrant (D) for apprehending the party so summoned, and bringing him before him or them, or before some other justice or justices for the same territorial division to answer the charge in the information and complaint mentioned, and to be further dealt with according to law.

Warrant to apprehend parties to be under the hand and seal of Justice: and to whom addressed, &c.

17. Every warrant (B) hereafter issued by any Justice or Justices of the Peace to apprehend any person charged with any indictable offence, shall be under the hand and seal, or hands and seals, of the justice or justices issuing the same, and may be directed to all or any of the constables or other peace officers of the territorial division within which the same is to be executed, or to any such constable and all other constables or peace officers in the territorial division within which the justice or justices issuing the same has jurisdiction, or generally to all the constables or peace officers within such last mentioned territorial division; and it shall state shortly the offence on which it is founded, and shall name or otherwise describe the offender, and it shall order the person or persons to whom it is directed to apprehend the offender, and bring him before the justice or justices issuing the warrant, or before some other Justice or Justices of the Peace for the same territorial division, to answer the charge contained in the information, and to be further dealt with according to law.

Warrant may remain in force until executed.

18. It shall not be necessary to make the warrant returnable at any particular time, but the same may remain in force until executed.

How and where a warrant may be executed.

19. Such warrant may be executed by apprehending the offender at any place in the territorial division within which the justice or justices issuing the same have jurisdiction, or in case of fresh pursuit, at any place in the next adjoining territorial division, and within seven miles of the border of the first

first mentioned territorial division, without having the warrant backed, as hereinafter mentioned.

On what conditions constables, &c., may execute warrant.

20. In case any warrant be directed to all constables or other peace officers in the territorial division within which the justice or justices have jurisdiction, any constable or other peace officer for any place within such territorial division may execute the warrant at any place within the jurisdiction for which the justice or justices acted when he or they granted such warrant, in like manner as if the warrant had been directed specially to such constable by name, and notwithstanding the place within which such warrant is executed be not within the place for which he is constable or peace officer.

No objection allowed for alleged defect in form or substance.

21. No objection shall be taken or allowed to any summons or warrant for any defect therein, in substance or in form, or for any variance between it and the evidence adduced on the part of the prosecution, before the justice or justices, who takes the examination of the witnesses in that behalf as hereinafter mentioned.

If variance appears important, the Justices may adjourn the case.

22. But if it appears to the justice or justices that the party charged has been deceived or misled by any such variance, such justice or justices, at the request of the party charged, may adjourn the hearing of the case to some future day, and in the meantime may remand the party, or admit him to bail as hereinafter mentioned.

Regulations as to the backing of warrants.

23. If the person against whom any warrant has been issued cannot be found within the jurisdiction of the justice or justices by whom the same was issued, or if he escapes into, or is supposed or is suspected to be, in any place within Canada, out of the jurisdiction of the justice or justices issuing the warrant, any Justice of the Peace within the jurisdiction of whom the person so escapes, or in which he is or is suspected to be, upon proof alone being made on oath or affirmation of the handwriting of the justice who issued the same, without any security being given, shall make an endorsement (K) on the warrant, signed with his name, authorizing the execution of the warrant within the jurisdiction of the justice making the endorsement, and such endorsement shall be sufficient authority to the person bringing such warrant, and to all other persons to whom the same was originally directed, and also to all constables and other peace officers of the territorial division where the warrant has been so endorsed, to execute the same in such other territorial division, and to carry the person against whom the warrant issued, when apprehended, before the Justice or Justices of the Peace who first

Effect of such backing.

first issued the warrant, or before some other Justice or Justices of the Peace for the same territorial division, or before some justice or justices of the territorial division, in which the offence mentioned in the warrant appears therein to have been committed.

Duty of constable in case of arrest.

24. If the prosecutor or any of the witnesses for the prosecution be then in the territorial division where such person has been apprehended, the constable, or other person or persons who have apprehended him may, if so directed by the justice backing the warrant, take him before the justice who backed the warrant, or before some other justice or justices for the same territorial division or place; and the said justice or justices may thereupon take the examination of such prosecutor or witnesses, and proceed in every respect in manner hereinafter directed with respect to persons charged before a Justice or Justices of the Peace, with an offence alleged to have been committed in another territorial division than that in which such persons have been apprehended.

Power to Justices to summon witnesses to attend, and give evidence.

25. If it be made to appear to any Justice of the Peace, by the oath or affirmation of any creditable person, that any person within the Dominion is likely to give material evidence for the prosecution and will not voluntarily appear for the purpose of being examined as a witness at the time and place appointed for the examination of the witnesses against the accused, such justice shall issue his summons (L 1) to such person, requiring him to be and appear at a time and place therein mentioned, before the said justice, or before such other Justice or Justices of the Peace for the same territorial division as may then be there, to testify what he knows concerning the charge made against the accused party.

If summons be not obeyed, warrant may be issued to compel attendance.

26. If any person so summoned neglects or refuses to appear at the time and place appointed by the summons, and no just excuse be offered for such neglect or refusal, (after proof upon oath or affirmation of the summons having been served upon such person, either personally or left with some person for him at his last or usual place of abode,) the justice or justices before whom such person should have appeared, may issue a warrant (L 2), to bring such person, at a time and place to be therein mentioned before the justice who issued the summons, or before such other Justice or Justices of the Peace for the same territorial division as may then be there, to testify as aforesaid, and the said warrant may, if necessary, be backed as hereinbefore mentioned, in order to its being executed out of the jurisdiction of the justice who issued the same.

27.

In certain cases warrant may issue in first instance.

27. If the justice be satisfied by evidence upon oath or affirmation that it is probable the person will not attend to give evidence unless compelled so to do, then, instead of issuing such summons, the justice may issue his warrant (L 3) in the first instance, and the warrant, if necessary, may be backed as aforesaid.

Persons appearing on summons and refusing to be examined may be committed.

28. If on the appearance of the person so summoned, either in obedience to the summons or by virtue of the warrant, he refuses to be examined upon oath or affirmation concerning the premises, or refuses to take such oath or affirmation, or having taken such oath or affirmation, refuses to answer the questions concerning the premises then put to him without giving any just excuse for such refusal, any Justice of the Peace then present and there having jurisdiction, may, by warrant (L 4), commit the person so refusing to the common gaol or other place of confinement, for the territorial division where the person so refusing then is, there to remain and be imprisoned for any time not exceeding ten days, unless he in the meantime consents to be examined and to answer concerning the premises.

Examination of witnesses to be in the presence of the accused, &c.

29. In all cases where any person appears or is brought before any Justice or Justices of the Peace charged with any indictable offence, whether committed in Canada or upon the high seas, or on land beyond the sea, and whether such person appears voluntarily upon summons or has been apprehended, with or without warrant, or is in custody for the same or any other offence, such justice or justices before he or they commit such accused person to prison for trial, or before he or they admit him to bail, shall, in the presence of the accused person, (who shall be at liberty to put questions to any witness produced against him,) take the statement (M) on oath or affirmation of those who know the facts and circumstances of the case, and shall put the same in writing, and such depositions shall be read over to and signed respectively by the witnesses so examined, and shall be signed also by the justice or justices taking the same.

Justice to administer oath or affirmation.

30. The justice or justices shall, before any witness is examined, administer to such witness the usual oath or affirmation, which such justice or justices are hereby empowered to do; and if upon the trial of the person accused, it be proved upon the oath or affirmation of any credible witness, that any person whose deposition has been taken as aforesaid, is dead, or is so ill as not to be able to travel, or is absent from Canada, and if it be also proved that such deposition was taken in presence of the person accused, and that he, his counsel or attorney, had a full opportunity of cross-examining the witness,

Depositions of persons dying, absent, &c., how to be used.

witness, then if the deposition purports to be signed by the justice by or before whom the same purports to have been taken, it shall be read as evidence in the prosecution without further proof thereof, unless it be proved that such deposition was not in fact signed by the justice purporting to have signed the same.

After examination of the accused, Justice to read depositions taken against him, and caution him as to any statement he may make.

31. After the examinations of all the witnesses for the prosecution have been completed, the justice, or one of the justices by or before whom the examinations have been completed, shall, without requiring the attendance of the witnesses, read or cause to be read to the accused, the depositions taken against him, and shall say to him these words, or words to the like effect: "Having heard the evidence, do you wish "to say any thing in answer to the charge? You are not "obliged to say any thing unless you desire to do so, but "whatever you say will be taken down in writing, and may "be given in evidence against you upon your trial;" and whatever the prisoner then says in answer thereto shall be taken down in writing (N) and read over to him, and shall be signed by the justice or justices, and kept with the depositions of the witnesses, and shall be transmitted with them as hereinafter mentioned.

Explanations to be made to the accused party.

32. The justice or justices shall, before the accused person makes any statement, state to him and give him clearly to understand that he has nothing to hope from any promise of favor, and nothing to fear from any threat which may have been held out to him to induce him to make any admission or confession of his guilt, but that whatever he then says may be given in evidence against him upon his trial, notwithstanding such promise or threat.

Not to prevent giving in evidence confession, &c.

33. Nothing herein contained shall prevent any prosecutor from giving in evidence any admission or confession, or other statement made at any time by the person accused or charged, which by law would be admissable as evidence against him.

Examinations may be given in evidence.

34. Upon the trial of the accused person, the examinations may if necessary be given in evidence against him without further proof thereof, unless it be proved that the justice or justices purporting to have signed the same, did not in fact sign the same.

Place of examination not an open Court, and no person to remain without permission.

35. The room or building in which the justice or justices take the examination and statement shall not be deemed an open court for that purpose; and the justice or justices, in his or their discretion, may order that no person,

person, shall have access to or be or remain in such room or building without the consent or permission of such justice or justices, if it appear to him or them that the ends of justice will be best answered by so doing.

Power to bind over the prosecutors and witnesses.

36. Any justice or justices, before whom any witness is examined, may bind by recognizance (O 1) the prosecutor and every such witness (except married women and infants, who shall find security for their appearance, if the justice or justices see fit) to appear at the next court of competent criminal jurisdiction at which the accused is to be tried, then and there to prosecute, or prosecute and give evidence, or to give evidence, as the case may be, against the party accused, which recognizance shall particularly specify the place of residence and the addition or occupation of each person entering into the same.

Recognizances to be subscribed to by Justices, &c.

37. The recognizance, being duly acknowledged by the person entering into the same, shall be subscribed by the justice or justices before whom the same is acknowledged, and a notice (O 2) thereof, signed by the said justice or justices, shall, at the same time, be given to the person bound thereby.

Recognizances to be transmitted to the Court in which the trial is to be had.

38. The several recognizances so taken, together with the written information (if any), the depositions, the statement of the accused, and the recognizance of bail (if any) shall be delivered by the said justice or justices, or he or they shall cause the same to be delivered to the proper officer of the court in which the trial is to be had, before or at the opening of the court on the first day of the sitting thereof, or at such other time as the judge, justice or person who is to preside at such court, or at the trial orders and appoints.

Witness refusing to enter into recognizances may be committed.

39. If any witness refuses to enter into recognizance, the Justice or Justices of the Peace by his or their warrant (P 1) may commit him to the common gaol for the territorial division in which the accused party is to be tried, there to be imprisoned and safely kept until after the trial of such accused party, unless in the meantime such witness duly enters into a recognizance before some one Justice of the Peace for the territorial division in which such gaol is situate.

Discharge for want of evidence, &c.

40. If afterwards, for want of sufficient evidence in that behalf or other cause, the justice or justices before whom the accused party has been brought, do not commit him or hold him to bail for the offence charged, such justice or justices or any other justice or justices for the same territorial

torial division, by his or their order (P 2) in that behalf, may order and direct the keeper of the gaol where the witness is in costody, to discharge him from the same, and such keeper shall thereupon forthwith discharge him accordingly.

Power to Justice to remand the accused from time to time not exceeding eight days by warrant.

41. If from the absence of witnesses, or from any other reasonable cause, it becomes necessary or advisable to defer the examination or further examination of the witnesses for any time, the justice or justices before whom the accused appears or has been brought, may, by his or their warrant (Q 1), from time to time, remand the party accused for such time as by such justice or justices in his or their discretion may be deemed reasonable, not exceeding eight clear days at any one time, to the common gaol in the territorial division for which such justice or justices are then acting.

Or for three days only by verbal order.

42. If the remand be for a time not exceeding three clear days, the justice or justices may verbally order the constable or other person in whose custody the accused party may then be, or any other constable or person to be named by the justice or justices in that behalf, to keep the accused party in his custody, and to bring him before the same or such other justice or justices as may be there acting, at the time appointed for continuing the examination.

But accused may be brought up at an earlier day.

43. Any such justice or justices may order the accused party to be brought before him or them, or before any other Justice or Justices of the Peace for the same territorial division, at any time before the expiration of the time for which such party has been remanded, and the gaoler or officer in whose custody he then is, shall duly obey such order.

Party accused may be admitted to bail on recognizance.

44. Instead of detaining the accused party in custody during the period for which he has been so remanded, any one Justice of the Peace before whom such party has appeared or been brought, may discharge him, upon his entering into a recognizance (Q 2, 3) with or without a surety or sureties, at the discretion of the justice, conditioned for his appearance at the time and place appointed for the continuance of the examination.

If the accused does not appear according to his recognizance.

45. If the accused party does not afterwards appear at the time and place mentioned in the recognizance, the said justice or any other Justice of the Peace who may then and there be present, having certified (Q 4) upon the back of the recognizance the non-appearance of such accused party, may transmit the recognizance to the clerk of the court where the accused

accused person is to be tried, or other proper officer appointed by law, to be proceeded upon in like manner as other recognizances, and such certificate shall be deemed sufficient *primâ facie* evidence of the non-appearance of the accused party.

If a person be apprehended in one division for an offence committed in another, he may be examined in the former, and committed in the latter.

46. Whenever a person appears or is brought before a justice or Justices of the Peace in the territorial division, wherein such justice or justices have jurisdiction, charged with an offence alleged to have been committed by him within any territorial division in Canada wherein such justice or justices have not jurisdiction, such justice or justices shall examine such witnesses and receive such evidence in proof of the charge as may be produced before him or them within his or their jurisdiction: and if in his or their opinion, such testimony and evidence be sufficient proof of the charge made against the accused party, the justice or justices shall thereupon commit him to the common gaol for the territorial division where the offence is alleged to have been committed, or shall admit him to bail as hereinafter mentioned, and shall bind over the prosecutor (if he has appeared before him or them) and the witnesses, by recognizance as hereinbefore mentioned.

And if evidence be not deemed sufficient, it may be transmitted to the proper division, &c.

47. If the testimony and evidence be not, in the opinion of the justice or justices, sufficient to put the accused party upon his trial for the offence with which he is charged, then the justice or justices shall by recognizance, bind over the witness or witnesses whom he has examined to give evidence as hereinbefore mentioned; and such justice or justices shall by warrant (R 1), order the accused party to be taken before some Justice or Justices of the Peace in and for the territorial division where the offence is alleged to have been committed, and shall at the same time deliver up the information and complaint, and also the depositions and recognizances so taken by him or them to the constable who has the execution of the last mentioned warrant, to be by him delivered to the justice or justices before whom he takes the accused, in obedience to the warrant, and the depositions and recognizances shall be deemed to be taken in the case, and shall be treated to all intents and purposes as if they had been taken by or before the last mentioned justice or justices, and shall, together with the depositions and recognizances taken by the last mentioned justice or justices in the matter of the charge against the accused party, be transmitted to the clerk of the court or other proper officer where the accused party ought to be tried, in the manner and at the time hereinbefore mentioned, if the accused party should be committed for trial upon the charge, or be admitted to bail.

Where he may be committed for trial or be bailed.

48.

Expenses of constable conveying the accused to be repaid him.

48. In case such accused party be taken before the justice or justices last aforesaid, by virtue of the said last mentioned warrant, the constable or other person or persons to whom the said warrant is directed, and who has conveyed such accused party before such last mentioned justice or justices, shall upon producing the said accused party before such justice or justices and delivering him into the custody of such person as the said justice or justices direct or name in that behalf, be entitled to be paid his costs and expenses of conveying the said accused party before the said justice or justices.

Justice to furnish constable with a receipt or certificate, &c.

49. Upon the constable delivering to the justice or justices the warrant, information (if any), depositions and recognizances, and proving on oath or affirmation the hand-writing of the justice or justices who has subscribed the same, such justice or justices before whom the accused party is produced, shall thereupon furnish such constable with a receipt or certificate (R 2), of his or their having received from him the body of the accused party, together with the warrant, information (if any), depositions and recognizances, and of his having proved to him or them, upon oath or affirmation the hand-writing of the justice who issued the warrant.

Constable to be paid by proper officer.

50. The said constable, on producing such receipt or certificate to the proper officer for paying such charges, shall be entitled to be paid all his reasonable charges, costs and expenses of conveying such accused party into such other territorial division, and of returning from the same.

Recognizances in certain cases.

51. If such justice or justices do not commit the accused party for trial, or hold him to bail, then the recognizances taken before the first mentioned justice or justices shall be void.

Power to any two Justices to bail persons charged with felony, not capital, &c.

52. When any person appears before any Justice of the Peace charged with a felony, or suspicion of felony, other than treason or felony punishable with death, or felony under the Act for the better protection of the Crown and of the Government, and the evidence adduced is, in the opinion of such justice, sufficient to put such accused party on his trial, but does not furnish such a strong presumption of guilt as to warrant his committal for trial, the justice jointly with some other Justice of the Peace, may admit such person to bail upon his procuring and producing such surety or sureties as in the opinion of the two justices will be sufficient to ensure the appearance of the person charged, at the time and place when and where he ought to be tried for the offence; and thereupon the two justices shall take the recognizances (S 1, 2) of

of the accused person and his sureties, conditioned for his appearance at the time and place of trial, and that he will then surrender and take his trial and not depart the court without leave; and when the offence committed or suspected to have been committed is a misdemeanor, any one justice before whom the accused party appears may admit to bail in manner aforesaid;—and such justice may in his discretion require such bail to justify upon oath as to their sufficiency, which oath the said justice may administer, and in default of such person procuring sufficient bail, then such justice may commit him to prison, there to be kept until delivered according to law

In case of misdemeanor, one Justice may bail.

Justification of bail.

Superior or County Judge in his discretion may order a party committed for trial to be admitted to bail.

53. In all cases of felony, or suspicion of felony, other than treason or felony punishable with death or felony under the Act for the better protection of the Crown and of the Government, and in all cases of misdemeanor, where the party accused has been finally committed as hereinafter provided, any judge of any Superior or County Court, having jurisdiction in the district or county, within the limits of which such accused party is confined, may, in his discretion, on application made to him for that purpose, order such accused party or person to be admitted to bail on entering into recognizance with sufficient sureties before two Justices of the Peace, in such amount as the judge directs, and thereupon the justices shall issue a warrant of deliverance (S 3,) as hereinafter provided, and shall attach thereto the order of the judge directing the admitting of such party to bail.

Certain offences not bailable except by Judge's order.

54. No Justices of the Peace, or County Judge shall admit any person to bail accused of treason or felony punishable with death, or felony under the Act for the better protection of the Crown and of the Government, nor shall any such person be admitted to bail, except by order of a Superior Court of criminal jurisdiction for the Province in which the accused person stands committed, or of one of the judges thereof, or in the Province of Quebec, by order of a Judge of the Court of Queen's Bench or Superior Court; and nothing herein contained, shall prevent such courts or judges admitting any person accused of misdemeanor or felony to bail when they may think it right so to do.

Justice bailing after committal to issue a warrant of deliverance.

55. In all cases where a Justice or Justices of the Peace admit to bail any person who is then in any prison charged with the offence for which he is so admitted to bail, the justice or justices shall send to or cause to be lodged with the keeper of such prison, a warrant of deliverance (S 3,) under his or their hand and seal or hands and seals, requiring the said keeper to discharge the person so admitted to bail if he be detained for no other offence, and upon such warrant of deliverance

deliverance being delivered to or lodged with such keeper, he shall forthwith obey the same.

If the evidence be deemed insufficient, party to be discharged.

56. When all the evidence offered upon the part of the prosecution against the accused party has been heard, if the Justice or Justices of the Peace then present are of opinion that it is not sufficient to put the accused party upon his trial for any indictable offence, such justice or justices shall forthwith order the accused party, if in custody, to be discharged as to the information then under inquiry; but if in the opinion of such justice or justices the evidence is sufficient to put the accused party upon his trial for an indictable offence, although it may not raise such a strong presumption of guilt as would induce them to commit the accused for trial without bail, or if the offence with which the party is accused is a misdemeanor, then the justices shall admit the party to bail as hereinbefore provided, but if the offence be a felony, and the evidence given is such as to raise a strong presumption of guilt, then the justice or justices shall by his or their warrant (T 1,) commit him to the common gaol for the territorial division to which he may by law be committed, or in the case of an indictable offence committed on the high seas or on land beyond the sea, to the common gaol of the territorial division within which such justice or justices have jurisdiction, to be there safely kept until delivered by due course of law: Provided that in cases of misdemeanor the justice or justices who have committed the offender for trial, may, at any time, before the first day of the sitting of the court at which he is to be tried, bail such offender in manner aforesaid, or may certify on the back of the warrant of committal the amount of bail to be required, in which case any other Justice of the Peace for the same territorial division may admit such person to bail in such amount, at any time before such first day of the sitting of the court aforesaid.

If sufficient, to be bailed or committed, &c.

Proviso: as to bail after committal for trial in cases of misdemeanor.

Provisions touching the conveyance of prisoners to gaol.

57. The constable or any of the constables, or other persons to whom any warrant of commitment authorized by this or any other Act or law is directed, shall convey the accused person therein named or described to the gaol or other prison mentioned in such warrant, and there deliver him, together with the warrant, to the keeper of such gaol or prison, who shall thereupon give the constable or other person delivering the prisoner into his custody a receipt (T 2,) for the prisoner, setting forth the state and condition of the prisoner when delivered into his custody.

When and how defendant may be entitled to a

58. At any time after all the examinations have been completed, and before the first sitting of the court at which any person so committed to prison or admitted to bail is to be tried,

copy of depositions.

tried, such person may require and shall be entitled to have from the officer or person having the custody of the same, copies of the depositions on which he has been committed or bailed, on payment of a reasonable sum for the same, not exceeding the rate of five cents for each folio of one hundred words.

Certain Magistrates may act alone under this Act.

59. Any Judge of the Sessions of the Peace for the City of Quebec or for the City of Montreal, or any Police Magistrate, District Magistrate or Stipendiary Magistrate, appointed for any territorial division, or any magistrate authorized by the law of the Province in which he acts, to perform acts usually required to be done by two or more Justices of the Peace, may do alone whatever is authorized by this Act to be done by any two or more Justices of the Peace, and the several forms in this Act contained may be varied so far as necessary to render them applicable to such case.

Duty of Coroner, in cases of murder or manslaughter.

60. Every Coroner, upon any inquisition taken before him, whereby any person is indicted for manslaughter or murder, or as an accessory to murder before the fact, shall, in presence of the party accused, if he can be apprehended, put in writing the evidence given to the jury before him, or as much thereof as may be material, giving the party accused full opportunity of cross-examination; and the Coroner shall have authority to bind by recognizance all such persons as know or declare any thing material touching the manslaughter or murder, or the offence of being accessory to murder, to appear at the next Court of Oyer and Terminer, or Gaol Delivery, or other court or term or sitting of a court, at which the trial is to be, then and there to prosecute or give evidence against the party charged; and every such Coroner shall certify and subscribe the evidence, and all the recognizances, and also the inquisition before him taken, and shall deliver the same to the proper officer of the court at the time and in the manner specified in the thirty-eighth section of this Act.

Recognizances to be sent to proper officer.

When party committed wishes to be bailed, Justices on notice thereof to forward all information to Clerk of the Crown, or other proper officers.

61. When any person has been committed for trial by any justice or justices, or Coroner, the prisoner, his counsel, attorney or agent, may notify the committing justice or justices, or Coroner, that he will so soon as counsel can be heard, move one of Her Majesty's Courts of superior criminal jurisdiction for the Province in which such person stands committed, or one of the judges thereof, or in the Province of Quebec, a Judge of the Court of Queen's Bench, or of the Superior Court, or in the Provinces of Ontario or New Brunswick, the Judge of the County Court if it is intended to apply to such judge under the fifty-third section of this Act, for an order to the Justices of the Peace, or Coroner for the territorial division where such prisoner is confined, to admit such prisoner

prisoner to bail, whereupon such committing justice or justices, or Coroner, shall, with all convenient expedition, transmit to the office of the Clerk of the Crown, or the chief clerk of the court, or the Clerk of the County Court or other proper officer (as the case may be), close under the hand and seal of one of them, a certified copy of all informations, examinations, and other evidences, touching the offence wherewith the prisoner has been charged, together with a copy of the warrant of commitment and inquest, if any such there be; and the packet containing the same shall be handed to the person applying therefor, in order to its transmission, and it shall be certified on the outside thereof to contain the information touching the case in question.

Same order to be made as upon *Habeas Corpus*.

62. Upon such application to any such court or judge as in the last preceding section mentioned, the same order touching the prisoner being bailed or continued in custody, shall be made as if the party were brought up upon a *habeas corpus*.

Penalty on Justices and Coroners disobeying this Act.

63. If any justice or Coroner neglects or offends in any thing contrary to the true intent and meaning of any of the provisions of the sixtieth and following sections of this Act, the court to whose officer any such examination, information, evidence, bailment, recognizance, or inquisition ought to have been delivered, shall, upon examination and proof of the offence, in a summary manner, set such fine upon every such justice or Coroner as the Court thinks meet.

Provisions to apply to all Justices and Coroners.

64. The provisions of this Act relating to justices and coroners, shall apply to the justices and coroners not only of districts and counties at large, but also of all other territorial divisions and jurisdictions.

Interpretation.

65. The words "territorial division," whenever used in this Act shall mean county, union of counties, township, city, town, parish or other juridical division or place to which the context may apply.

Forms.

66. The several forms in the schedule to this Act contained, or forms to the like effect, shall be good, valid and sufficient in law.

Commencement of Act

67. This Act shall commence and take effect on the first day of January, in the year of our Lord, one thousand eight hundred and seventy.

SCHEDULES.

SCHEDULES.

(A) *Vide* ss. 1 *and* 9.

INFORMATION AND COMPLAINT FOR AN INDICTABLE OFFENCE.

Canada,
Province of ,
District (*or* County,
United Counties, *or*
as the case may be,)
of

The information and complaint of C. D. of (*yeoman*), taken day of , in the year of our Lord , before the undersigned, (*one*) of Her Majesty's Justices of the Peace, in and for the said district (*or* county, *or as the case may be*,) of who saith that (*&c., stating the offence.*)

Sworn (*or* affirmed) before (*me*) the day and year first above mentioned, at

J. S.

(B) *See* ss. 1, 17.

WARRANT TO APPREHEND A PERSON CHARGED WITH AN INDICTABLE OFFENCE.

Canada,
Province of
District (*or* County,
United Counties, *or*
as the case may be,)
of

To all or any of the constables or other Peace Officers in the District (*or* County, United Counties, *or as the case may be*,) of :

Whereas A. B., of (*laborer*) hath this day , been charged upon oath before the undersigned, (*one*) of Her Majesty's Justices of the Peace in and for the said District (*or* County, United Counties, *or as the case may be*, of , for that he, on , at , did (*&c., stating shortly the offence*) ; These are therefore to command you, in Her Majesty's name, forthwith to apprehend the said A. B., and to bring him before (*me*) or some other of Her Majesty's Justices of the Peace in and for the said District (*or* County, United Counties, *or as the case may be*,) of , to answer unto the said charge, and to be further dealt with according to law.

Given under (*my*) hand and seal, this day of , at , in the District (*County, &c.,*) aforesaid.

J. S. [L. S.]

(C)

(C) *See* ss. 2, 13.

SUMMONS TO A PERSON CHARGED WITH AN INDICTABLE OFFENCE.

Canada,
District (*or* County, United Counties, *or as the case may be*, of)
To A. B. of , (*laborer*) :

Whereas you have this day been charged before the undersigned (*one*) of Her Majesty's Justices of the Peace in and for the said District (*or* County, United Counties, *or as the case may be*,) of for that you on , at , (*&c., stating shortly the offence*) ; These are therefore to command you, in Her Majesty's name, to be and appear before (*me*) on , at o'clock in the (*fore*) noon, at , or before such other Justice or Justices of the Peace of the same District (*or* County, United Counties, *or as the case may be*,) of , as may then be there, to answer to the said charge, and to be further dealt with according to law. Herein fail not.

Given under (*my*) hand and seal, this day of , in the year of our Lord , at , in the District (*or* County, *&c.*,) aforesaid.

J. S. [L. S.]

(D) *See* ss. 2, 16.

WARRANT WHEN THE SUMMONS IS DISOBEYED.

Canada,
Province of ,
District (*or* County, United Counties, *or as the case may be*,) of
To all or any of the Constables, or other Peace Officers in the said District (*or* County, United Counties, *or as the case may be*,) of :

Whereas on the day of (instant *or* last past) A. B. of the , was charged before (*me* or *us*,) the undersigned, (*or name the magistrate or magistrates, or as the case may be*,) (*one*) of Her Majesty's Justices of the Peace in and for the said District (*or* County, United Counties, *as the case may be*) of for that (*&c., as in the summons*) ; And whereas (I, *or* he, *the said Justice of the Peace*, *or* we *or* they, *the said Justices of the Peace*) did then issue (*my, our, his*

his or *their*) summons to the said A. B., commanding him, in Her Majesty's name, to be and appear before (*me*) on at , o'clock in the (*fore*) noon, at, , or before such other Justice or Justices of the Peace as should then be there, to answer to the said charge, and to be further dealt with according to law; and whereas the said A. B. hath neglected to be or appear at the time and place appointed in and by the said summons, although it hath now been proved to (*me*) upon oath, that the said summons was duly served upon the said A. B.; These are therefore to command you in Her Majesty's name, forthwith to apprehend the said A. B., and to bring him before (*me*) or some other of Her Majesty's Justices of the Peace in and for the said District (*or* County, United Counties, *or as the case may be*,) of , to answer the said charge, and to be further dealt with according to law.

Given under (*my*) hand and seal, this day of , in the year of our Lord , at in the District) *or* County, &c.,) of aforesaid.

J. S. [L. S.]

(D 2) *See* s. 3.

WARRANT TO APPREHEND A PERSON CHARGED WITH AN INDICTABLE OFFENCE COMMITTED ON THE HIGH SEAS OR ABROAD.

For offences committed on the high seas the warrant may be the same as in ordinary cases, but describing the offence to have been committed "on the high seas, out of the body of any district or county in Canada and within the jurisdiction of the Admiralty of England.

For offences committed abroad, for which the parties may be indicted in Canada, the warrant also may be the same as in ordinary cases, but describing the offence to have been committed "on land out of Canada, to wit: at , in the kingdom of , *or* at , in the Island of , in the West Indies, *or* at , in the East Indies," *or as the case may be.*

(E 1) *See* s. 12.

INFORMATION TO OBTAIN A SEARCH WARRANT.

Canada,
Province of
District (*or* County, United Counties, *or as the case may be*,) of

The

The information of A. B., of the , of , in the said District (*or* County, *&c.*,) (*yeoman*), taken this day of , in the year of our Lord , before me, W. S., Esquire, one of Her Majesty's Justices of the Peace, in and for the District (*or* County, United Counties, *or as the case may be*,) of , who saith that on the day of (*insert the description of articles stolen*) of the goods and chattels of deponent, were feloniously stolen, taken and carried away, from and out of the (*dwelling house, &c.*) of this deponent, at the (*township &c.*,) aforesaid, by (some person or persons unknown, *or name the person*,) and that he hath just and reasonable cause to suspect, and doth suspect that the said goods and chattels, or some part of them, are concealed in the (*dwelling house, &c. of C. D.*) of , in the said District (*or* County,) (*here add the causes of suspicion, whatever they may be ;*) Wherefore, (*he*) prays that a search warrant may be granted to him to search (*the dwelling house, &c.*,) of the said C. D. as aforesaid, for the said goods and chattels so feloniously stolen, taken and carried away as aforesaid.

Sworn (*or* affirmed) before me the day and year first above mentioned, at in the said District, (*or* County) of

W. S.
J. P

(E 2) *See* s. 12.

SEARCH WARRANT.

Canada,
Province of ,
District (*or* County,
United Counties, *or*
as the case may be)
of

To all or any of the constables, or other peace officers, in the District (*or* County, United Counties, *or as the case may be*,) of :

Whereas A. B. of the , of , in the said District (*or* County, *&c.*,) hath this day made oath before me the undersigned, one of Her Majesty's Justices of the Peace, in and for the said District *or* County, United Counties, *or as the case may be*,) of , that on the day of , (*copy information as far as place of supposed concealment*) ; These are therefore in the name of our Sovereign Lady the Queen, to authorize and require you, and each and every of you, with necessary and proper assistance, to enter in the day time into the said (*dwelling house &c.*,) of the said *&c.*, and there diligently search for the said goods and chattels, and if the same,

or

or any part thereof, shall be found upon such search, that you bring the goods so found, and also the body of the said C. D. before me, or some other Justice of the Peace, in and for the said District (*or* County, United Counties, *or as the case may be*) of , to be disposed of and dealt with according to law.

Given under my hand and seal, at , in the said District *or* County, *&c.*,) this day of , in the year of our Lord, one thousand eight hundred and

W. S., *J. P.* (*Seal.*)

(F) *See* s. 4.

CERTIFICATE OF INDICTMENT BEING FOUND.

I hereby certify that at a Court of (Oyer and Terminer, *or* General Gaol Delivery, *or* General Sessions of the Peace) holden in and for the District (*or* County, United Counties, *or as the case may be,*) of , at , in the said District, (County, *&c.*,) on , a bill of indictment was found by the Grand Jury against A. B., therein described as A. B., late of (*laborer,*) for that he (*&c., stating shortly the offence,*) and that the said A. B. hath not appeared or pleaded to the said indictment.

Dated this , day of , one thousand eight hundred and

Z. X.
Clerk.

Clerk of the Crown, *or* deputy clerk of the Crown for the District (*or* County, United Counties, *or as the case may be,*)

or

Clerk of the Peace of and for the said District (*or* County, United Counties, *or as the case may be.*)

(G) *See* s. 4.

WARRANT TO APPREHEND A PERSON INDICTED.

Canada,
Province of
District (*or* County, United Counties, *or as the case may be*) of

To all or any of the constables, or other peace officers, in the said District (*or* County, United Counties, *or as the case may be*) of :

Whereas

Whereas it has been duly certified by J. D., Clerk of the Crown, of (*name the court*) (*or* E. G., Deputy Clerk of the Crown, *or* Clerk of the Peace, *as the case may be*) in and for the District (*or* County, United Counties, *or as the case may be*) of that (*&c., stating the certificate*); These are therefore to command you in Her Majesty's name forthwith to apprehend the said A. B., and to bring him before (*me,*) or some other Justice or Justices of the Peace in and for the said District (*or* County, United Counties, *or as the case may be,*) to be dealt with according to law.

Given under my hand and seal, this day of , in the year of our Lord , at , in the District (*or* County, *&c.,*) aforesaid.

J. S. [L. S.]

(H) *See* s. 5.

WARRANT OF COMMITMENT OF A PERSON INDICTED.

Canada,
Province of
District (*or* County, United Counties, *or as the case may be*) of

To all or any of the constables, or other peace officers in the said District (*or* County, *&c.,*) of , and the keeper of the common gaol, at , in the said District (*or* county, United Counties, *or as the case may be*) of :

Whereas by a warrant under the hand and seal of (*one*) of Her Majesty's Justices of the Peace in and for the said District (*or* County, United Counties, *or as the case may be*) of under hand and seal dated , after reciting that it had been certified by J. D., (*&c., as in the certificate,*) ( ) the said Justice of the Peace commanded all or any of the constables, in Her Majesty's name, forthwith to apprehend the said A. B., and to bring him before (*him*) the said Justice of the Peace in and for the said District (*or* County, United Counties, *or as the case may be,*) of or before some other Justice or Justices in and for the said District (*or* County, United Counties, *or as the case may be,*) to be dealt with according to law; and whereas the said A. B., hath been apprehended under and by virtue of the said warrant, and being now brought before (*me*) it is hereupon duly proved to (*me*) upon oath that the said A. B., is the same person who is named and charged by , in the said indictment; These are therefore to command you the said constables and peace officers, or any of you, in Her Majesty's name,

name, forthwith to take and convey the said A. B., to the said common gaol at , in the said District (*or* County, United Counties, *or as the case may be*,) of , and there to deliver him to the keeper thereof, together with this precept; and (*I*) hereby command you the said keeper to receive the said A. B., into your custody in the said gaol, and him there safely to keep until he shall thence be delivered by due course of law.

Given under (*my*) hand and seal, this day of in the year of our Lord , at , in the District (*or* County, *&c.*,) aforesaid.

J. S. [L. S.]

(I) *See* s. 6.

WARRANT TO DETAIN A PERSON INDICTED WHO IS ALREADY IN CUSTODY FOR ANOTHER OFFENCE.

Canada,
Province of
District (*or* County, United Counties, *or as the case may be*) of

To the keeper of the common gaol at in the said District (*or* County, United Counties, *or as the case may be*,) of :

Whereas it has been duly certified by J. D., Clerk of the Crown of (*name the court*) *or* Deputy Clerk of the Crown *or* clerk of the Peace of and for the District (*or* County, United counties, *or as the case may be*) of that (*&c., stating the certificate*); And whereas (*I am*) informed that the said A. B., is in your custody in the said common gaol at aforesaid, charged with some offence, or other matter; and it being now duly proved upon oath before (*me*) that the said A. B., so indicted as aforesaid, and the said A. B., in your custody as aforesaid, are one and the same person; These are therefore to command you in Her Majesty's name, to detain the said A. B., in your custody in the common gaol aforesaid, until by Her Majesty's writ of *habeas corpus* he shall be removed therefrom for the purpose of being tried upon the said indictment, or until he shall otherwise be removed or discharged out of your custody by due course of law.

Given under (*my*) hand and seal, this day of , in the year of our Lord , at , in the District (*or* County, &c.,) aforesaid.

J. S. [L. S.

(K) *See* s. 23.

ENDORSEMENT IN BACKING A WARRANT

Canada,
Province of ,
District (*or* County,
United Counties *or as the case may be*)
of

Whereas proof upon oath hath this day been made before me, one of Her Majesty's Justices of the Peace in and for the said District (*or* County, United Counties, *or as the case may be*) of that the name of J. S., to the within warrant subscribed, is of the hand-writing of the Justice of the Peace within mentioned; I do therefore hereby authorize W. T. who bringeth to me this warrant and all other persons to whom this warrant was originally directed, or by whom it may be lawfully executed, and also all constables and other peace officers of the said District (*or* County, United Counties, *or as the case may be*) of , to execute the same within the said last mentioned District (*or* County, United Counties, *or as the case may be.*)

Given under my hand, this day of , in the year of Our Lord , at , in the District (*or* County, *&c.*,) aforesaid.

J. L.

(L 1) *See* s. 25.)

SUMMONS TO A WITNESS.

Canada,
Province of ,
District (*or* County,
United Counties, *or as the case may be*)
of

To E. F. of , (*laborer*).

Whereas information hath been laid before the undersigned, one of Her Majesty's Justices of the Peace in and for the said District (*or* County, United Counties, *or as the case may be,*) of , that A. B. (*&c., as in the summons or warrant against the accused,*) and it hath been made to appear to me upon (*oath,*) that you are likely to give material evidence for (*prosecution*); these are therefore to require you to be and to appear before me on next, at o'clock in the (*fore*) noon, at , or before such other Justice or Justices of the Peace of the same District (*or* County, United Counties, *or as the case may be,*), of , as may then

be there, to testify what you shall know concerning the said charge so made against the said A. B. as aforesaid. Herein fail not.

Given under my hand and seal, this day of in the year of our Lord , at , in the District (*or* County, *&c.*,) aforesaid

J. S. [L. S.]

(L 2) *See* s. 26

WARRANT WHEN A WITNESS HAS NOT OBEYED THE SUMMONS.

Canada,
Province of ,
District (*or* County, United Counties, *or as the case may be*), of

To all or any of the constables or other peace officers, in the said District (*or* County, United Counties, *or as the case may be*) of

Whereas information having been laid before , (*one*) of Her Majesty's Justices of the Peace, in and for the said District (*or* County, &c.,) of , that A. B., (*&c., as in the summons ;*) and it having been made to appear to (*me*) upon oath that E. F. of , (*laborer,*) was likely to give material evidence for the prosecution, (*I*) did duly issue (*my*) summons to the said E. F., requiring him to be and appear before (*me*) on , at , or before such other Justice or Justices of the Peace for the same District (*or* County, United Counties, *or as the case may be,*) as might then be there, to testify what he should know respecting the said charge so made against the said A. B., as aforesaid ; and whereas proof has this day been made upon oath before (*me*) of such summons having been duly served upon the said E. F. ; and whereas the said E. F. hath neglected to appear at the time and place appointed by the said summons, and no just excuse has been offered for such neglect ; these are therefore to command you to bring and have the said E. F. before (*me*) on at o'clock in the (*fore*) noon, at , or before such other justice or justices for the same District (*or* County, United Counties, *or as the case may be,*) as may then be there, to testify what he shall know concerning the said charge so made against the said A. B. as aforesaid.

Given under (*my*) hand and seal, this day of in the year of our Lord , at in the District (*or* County, *&c.*,) aforesaid

J. S. [L. S.]

L)

(L 3) *See* s. 27.

WARRANT FOR A WITNESS IN THE FIRST INSTANCE.

Canada,
Province of ,
District *or* (County,
United Counties, *or as the case may be*,)
of

To all or any of the constables, or other peace officers in the said District (*or* County, United Counties, *or as the case may be*) of

Whereas information has been laid before the undersigned, (*one*) of Her Majesty's Justices of the Peace, in and for the said District (*or* County, United Counties, *or as the case may be*,) of that (*&c., as in the summons*); and it having been made to appear to (*me*) upon oath, that E. F. of , (*laborer*,) is likely to give material evidence for the prosecution, and that it is probable that the said E. F. will not attend to give evidence unless compelled to do so: These are therefore to command you to bring and have the said E. F. before (*me*) on at o'clock in the (*fore*) noon, at , or before such other Justice or Justices of the Peace for the same District (*or* County, United Counties, *or as the case may be*,) as may then be there, to testify what he shall know concerning the said charge so made against the said A. B. as aforesaid.

Given under my hand and seal, this day of in the year of our Lord , at in the District (*or* County, *&c.*,) aforesaid.

J. S. [L. S.]

(L 4) *See* s. 28.

WARRANT OF COMMITMENT OF A WITNESS FOR REFUSING TO BE SWORN, OR TO GIVE EVIDENCE.

Canada,
Province of ,
District (*or* County,
United Counties, *or as the case may be*)
of

To all or any of the constables, or other peace officers, in the District (*or* County, United Counties, *or as the case may be*) of and to the keeper of the common gaol at , in the said District (*or* County, United Counties, *or as the case may be*,) of :

Whereas

Whereas A. B. was lately charged before (*one*) of Her Majesty's Justices of the Peace in and for the said District (*or* County, United Counties, *or as the case may be*) of , for that (*&c., as in the summons*); and it having been made to appear to (*me*) upon oath that E. F. of was likely to give material evidence for the prosecution, (*I*) duly issued (*my*) summons to the said E. F. requiring him to be and appear before me on , at , or before such other Justice or Justices of the Peace for the same District (*or* County, United Counties, *or as the case may be*) as should then be there, to testify what he should know concerning the said charge so made against the said A. B. as aforesaid; and the said E. F. now appearing before (*me*) (*or* being brought before (*me*) by virtue of a warrant in that behalf, to testify as aforesaid,) and being required to make oath or affirmation as a witness in that behalf, hath now refused so to do, (*or* being duly sworn as a witness doth now refuse to answer certain questions concerning the premises which are now here put to him, and more particularly the following) without offering any just excuse for such refusal; these are therefore to command you, the said constables, peace officers, or any one of you, to take the said E. F. and him safely convey to the common gaol at , in the District (*or* County, &c.) aforesaid, and there to deliver him to the keeper thereof, together with this precept: and (*I*) do hereby command you, the said keeper of the said common gaol to receive the said E. F. into your custody in the said common gaol, and him there safely keep for the space of days, for his said contempt, unless he shall in the meantime consent to be examined, and to answer concerning the premises; and for your so doing, this shall be your sufficient warrant.

Given under (*my*) hand and seal, this day of in the year of our Lord , at , in the District (County, *&c.*,) aforesaid.

J. S. [L. S.]

(M) *See* s. 29.

DEPOSITIONS OF WITNESSES.

Canada,
Province of ,
District (*or* County,
United Counties, *or*
as the case may be,)
of

The examination of C. W. of (*farmer*), and E. F. of , (*laborer*), taken on (*oath*) this day of , in

in the year of our Lord , at in the District (*or* County, *&c., or as the case may be*) aforesaid, before the undersigned, (*one*) of Her Majesty's Justices of the Peace for the said District (*or* County, United Counties, *or as the case may be*,) in the presence and hearing of A. B. who is charged this day before (*me*) for that he, the said A. B. at *&c., describe the offence as in a warrant of commitment.*)

This deponent, C. D., upon his (*oath*) saith as follows: (*&c., stating the deposition of the witness as nearly as possible in the words he uses. When his deposition is completed let him sign it.*)

And this deponent, E. F. upon his (*oath*) saith as follows: (*&c.*)

The above depositions of C. D. and E. F. were taken and (*sworn*) before me, at , on the day and year first above mentioned.

J. S.

(N) *See* s. 31.

STATEMENT OF THE ACCUSED.

Canada, Province of , District (*or* County, United Counties, *or as the case may be*,) of

A. B. stands charged before the undersigned, (*one*) of Her Majesty's Justices of the Peace, in and for the District (*or* County, United Counties, *or as the case may be*,) aforesaid, this day of , in the year of our Lord , for that the said A. B., on , at , (*&c., as in the captions of the depositions ;*) and the said charge being read to the said A. B., and the witnesses for the prosecution, C. D. and E. F., being severally examined in his presence, the said A. B., is now addressed by me as follows: "Having heard the evidence, do you wish to say anything "in answer to the charge? You are not obliged to say any-"thing, unless you desire to do so; but whatever you say "will be taken down in writing, and may be given in "evidence against you at your trial." Whereupon the said A. B. saith as follows: (*Here state whatever the prisoner may say, and in his very words as nearly as possible. Get him to sign it if he will.*

A. B.

Taken before me, at , the day and year first above mentioned.

J. S.

(O 1)

(O 1) *See s.* 36.

RECOGNIZANCE TO PROSECUTE OR GIVE EVIDENCE.

Canada,
Province of ,
District (*or* County,
United Counties, *or as the case may be,*)
of

Be it remembered, that on the day of , in the year of our Lord C. D. of , in the of , in the (*township*) of , in the said District (*or* County, *&c.,*) of , (*farmer,*) personally came before me, one of Her Majesty's Justices of the Peace in and for the said District (*or* County, United Counties *or as the case may be,*) of , and acknowledged himself to owe to our Sovereign Lady the Queen, her heirs and successors, the sum of of good and lawful current money of Canada, to be made and levied of his goods and chattels, lands and tenements, to the use of our said Sovereign Lady the Queen, her heirs and successors, if the said C. D. shall fail in the condition endorsed.

Taken and acknowledged the day and year first above mentioned at, before me.

J. S.

CONDITION TO PROSECUTE.

The condition of the within (*or* above) written recognizance is such that whereas one A. B. was this day charged before me, J. S., Justice of the Peace within mentioned, for that (*&c., as in the caption of the depositions ;*) if therefore, he the said C. D. shall appear at the next Court of Oyer and Terminer *or* general gaol delivery, (*or* at the next Court of General *or* Quarter Sessions of the Peace,) to be holden in and for the District (*or* County, United Counties, *or as the case may be*) of * , and there prefer or cause to be preferred a bill of indictment for the offence aforesaid, against the said A. B. and there also duly prosecute such indictment, then the said recognizance to be void or else to stand in full force and virtue.

CONDITION TO PROSECUTE AND GIVE EVIDENCE.

(*Same as the last form, to the asterisk,* and then thus :*—" And " there prefer or cause to be preferred a bill of indictment " against the said A. B. for the offence aforesaid, and duly " prosecute

"prosecute such indictment, and give evidence thereon, as "well to the jurors who shall then enquire into the said "offence, as also to them who shall pass upon the trial of the "said A. B., then the said recognizance to be void, or else "to stand in full force and virtue."

CONDITION TO GIVE EVIDENCE.

(*Same as the last form but one, to the asterisk,* end then thus:*)—"And there give such evidence as he knoweth upon a bill "of indictment to be then and there preferred against the "said A. B. for the offence aforesaid, as well to the jurors "who shall there enquire of the said offence, as also to the "jurors who shall pass upon the trial of the said A. B, "if the said bill shall be found a true bill, then the said "recognizance to be void, otherwise to remain in full force "and virtue."

(O 2) *See* s. 37.

NOTICE OF THE SAID RECOGNIZANCE TO BE GIVEN TO THE PROSECUTOR AND HIS WITNESSES.

Canada,
Province of ,
District (*or* County,
United Counties, *or as the case may be*)
of

Take notice that you C D. of , are bound in the sum of to appear at the next Court of Oyer and Terminer and General Gaol Delivery, (*or* at the next Court of General Quarter Sessions of the Peace,) in and for the District (*or* County, United Counties, *or as the case may be*) of to be holden at , in the said District (County *&c.*) and then and there (*prosecute and*) give evidence against A. B., and unless you then appear there, (*prosecute and*) give evidence accordingly, the recognizance entered into by you will be forthwith levied on you

Dated this day of one thousand eight hundred and

J. S.

(P 1) *See* s. 39.

COMMITMENT OF A WITNESS FOR REFUSING TO ENTER INTO THE RECOGNIZANCE.

Canada,
Province of ,
District (*or* County,
United Counties, *or as the case may be*,)
of

To all or any of the constables or other peace officers in the said District (*or* County, &c.) of , and to the keeper of the common gaol of the said District, (*or* County *&c.*,) *or as the case may be*,) at , in the said District (*or* County, *&c.*,) *or as the case may be*,) of :

Whereas A. B. was lately charged before the undersigned, (*or name of the Justice of the Peace*) (*one*) of Her Majesty's Justices of the Peace in and for the said District (*or* County, &c.,) of for that (*&c., as in the summons to the witness*,) and it having been made to appear to (*me*) upon oath that E. F., of was likely to give material evidence for the prosecution, (*I*) duly issued (*my*) summons to the said E. F., requiring him to be and appear before (*me*) on , at or before such other Justice or Justices of the Peace as should then be there, to testify what he should know concerning the said charge so made against the said A. B. as aforesaid; and the said E. F. now appearing before (*me*) (or being brought before (*me*) by virtue of a warrant in that behalf to testify as aforesaid,) hath been now examined before (*me*) touching the premises, but being by (*me*) required to enter into a recognizance conditioned to give evidence against the said A. B., hath now refused so to do: these are therefore to command you the said constables or peace officers, or any one of you, to take the said E. F. and him safely convey to the common gaol at , in the District (*or* County, *&c.*,) aforesaid, and there deliver him to the said keeper thereof, together with this precept; and I do hereby command you, the said keeper of the said common gaol, to receive the said E. F. into your custody in the said common gaol, there to imprison and safely keep him until after the trial of the said A. B. for the offence aforesaid, unless in the meantime the said E. F. shall duly enter into such reecognizance as aforesaid, in the sum of before some one Justice of the Peace for the said District, (*or* County, United Counties, *or as the case may be*,) conditioned in the usual form to appear at the next Court of (Oyer and Terminer, or General Gaol Delivery, *or* General *or* Quarter Sessions of the Peace,) to be holden in and for the said District (*or* County, United

United Counties, *or as the case may be*,) of , and there to give evidence before the grand jury upon any bill of indictment which may then and there be preferred against the said A. B. for the offence aforesaid, and also to give evidence upon the trial of the said A. B. for the said offence, if a true bill should be found against him for the same.

Given under my hand and seal, this , day of , in the year of our Lord , at in the District (*or* County, *&c.*,) aforesaid.

J. S. [L. S.]

(P. 2) *See* s. 40.

SUBSEQUENT ORDER TO DISCHARGE THE WITNESS.

Canada,
Province of ,
District (*or* County,
United Counties, *or as the case may be*),
of

To the keeper of the common gaol, at , in the District (*or* County, &c.,) of aforesaid :

Whereas by (*my*) order dated the day of (*instant*) reciting that A. B. was lately before then charged before (*me*) for a certain offence therein mentioned, and that E. F. having appeared before (*me*) and being examined as a witness for the prosecution on that behalf, refused to enter into recognizance to give evidence against the said A. B., and I therefore thereby committed the said E. F. to your custody, and required you safely to keep him until after the trial of the said A. B. for the offence aforesaid, unless in the meantime he should enter into such recognizance as aforesaid; and whereas for want of sufficient evidence against the said A. B., the said A. B. has not been committed or holden to bail for the said offence, but on the contrary thereof has been since discharged, and it is therefore not necessary that the said E. F. should be detained longer in your custody: these are therefore to order and direct you the said keeper to discharge the said E. F. out of your custody, as to the said commitment, and suffer him to go at large.

Given under my hand and seal, this day of in the year of our Lord , at , in the District (*or* County *&c.*,) aforesaid.

J. S. [L. S.]

(Q 1) *See* s. 41.

WARRANT REMANDING A PRISONER.

Canada,
Province of ,
District (*or* County,
United Counties, *or as the case may be*),
of

To all or any of the constables and other peace officers in the said District (*or* County, United Counties, *or as the case may be,*) of , and to the keeper of the (*common gaol* or *lock-up house*) , in the said District (*or* County, *&c.,*) of

Whereas A. B. was this day charged before the undersigned (*one*) of Her Majesty's Justices of the Peace in and for the said District (*or* County, United Counties, *or as the case may be*), of , for that (*&c., as in the warrant to apprehend*), and it appears to (*me*) to be necessary to remand the said A. B.: these are therefore to command you, in Her Majesty's name, forthwith to convey the said A. B. to the (*common gaol* or *lock-up house,*) at , in the said District (*or* County, *&c.,*) and there to deliver him to the keeper thereof, together with this precept; and I hereby command you the said keeper to receive the said A. B. into your custody in the said (*common gaol* or *lock-up house,*) and there safely keep him until the day of , (*instant*) when I hereby command you to have him at , at o'clock in the (*fore*) noon of the same day before (*me*) or before some other Justice or Justices of the Peace for the said District (*or* County, United Counties, *or as the case may be*), as may then be there, to answer further to the said charge, and to be further dealt with according to law, unless you shall be otherwise ordered in the meantime.

Given under my hand and seal, this day of , in the year of our Lord , at in the District (*or* County, *&c.,*) of aforesaid.

J. S [L. S.]

(Q 2)

(Q 2) *See* s. 44.

RECOGNIZANCE OF BAIL INSTEAD OF REMAND ON AN ADJOURNMENT OF EXAMINATION.

Canada, ,
Province of ,
District (*or* County, United Counties, *or as the case may be*,) of

Be it remembered, that on the day of , in the year of our Lord , A. B. of , (*laborer*), L. M. of (*grocer*), and N. O., of (*butcher*) personally came before me, (*one*) of Her Majesty's Justices of the Peace for the said District (*or* County, United Counties, *as the case may be*), and severally acknowledged themselves to owe to our Sovereign Lady the Queen, her heirs and successors, the several sums following, that is to say: the said A. B. the sum of and the said L. M. and N. O. the sum of , each, of good and lawful current money of Canada, to be made and levied of their several goods and chattels, lands and tenements repectively, to the use of our said Lady the Queen, her heirs and successors, if he, the said A. B., fail in the condition endorsed.

Taken and acknowledged the day and year first above mentioned, at before me.

J. S.

CONDITION.

The condition of the within written recognizance is such, that whereas the within bounden A. B. was this day (*or* on last past) charged before me for that (*&c., as in the warrant;*) and whereas the examination of the witnesses for the prosecution in this behalf is adjourned until the day of (*instant:*) If therefore the said A. B. shall appear before me on the said day of (*instant*), at o' clock in the (*fore*) noon, or before such other Justice or Justices of the Peace for the said District (*or* County, *or* United Counties of *or as the case may be*), as may then be there, to answer (*further*) to the said charge, and to be further dealt with according to law, the said recognizance to be void, or else to stand in full force and virtue.

(Q 3) *See* s. 44.

NOTICE OF RECOGNIZANCE TO BE GIVEN TO THE ACCUSED AND HIS SURETIES.

Canada,
Province of ,
District (*or* County,
United Counties, *or as the case may be*)
of

Take notice that you A. B. of , are bound in the sum of , and your sureties L. M. and N. O. in the sum of , each, that you A. B. appear before me J. S. one of Her Majesty's Justices of the Peace for the District (*or* County, United Counties, *or as the case may be*), of , on , the day of (*instant*), at o'clock in the (*fore*) noon at , or before such other justice or justices of the same District, (*or* County, United Counties, *or as the case may be*) as may then be there, to answer (*further*) to the charge made against you by C. D. and to be further dealt with according to law; and unless you A. B. personally appear accordingly, the recognizance entered into by yourself and sureties will be forthwith levied on you and them.

Dated this day of , one thousand eight hundred and

J. S.

(Q 4) *See* s. 45.

CERTIFICATE OF NON-APPEARANCE TO BE ENDORSED ON THE RECOGNIZANCE.

I hereby certify that the said A. B. hath not appeared at the time and place, in the above condition mentioned, but therein hath made default, by reason whereof the within written recognizance is forfeited.

J. S.

(R 1) *See* s. 47.

WARRANT TO CONVEY THE ACCUSED BEFORE A JUSTICE OF THE COUNTY IN WHICH THE OFFENCE WAS COMMITTED.

Canada,
Province of ,
District (*or* County,
United Counties, *or*
as the case may be,)
of

T

To all or any of the constables, or other peace officers in the said District (*or* County, United Counties, *or as the case may be*) of

Whereas A. B. of (*laborer*), hath this day been charged before the undersigned (*one*) of Her Majesty's Justices of the Peace in and for the said District (*or* County, United Counties, *or as the case may be*) of , for that (*&c., as in the warrant to apprehend*); And whereas (*I*) have taken the deposition of C. D. a witness examined by (*me*) in this behalf, but inasmuch as (*I*) am informed that the principal witnesses to prove the said offence against the said A. B. reside in the District (*or* County, United Counties, *or as the case may be,*) of where the said offence is alleged to have been committed; These are therefore to command you, in Her Majesty's name, forthwith to take and convey the said A. B. to the said District (*or* County, United Counties, *or as the case may be,*) of and there carry him before some Justice or Justices of the Peace in and for that District (*or* County, United Counties, *or as the case may be,*) and near unto the (*Township of*) where the offence is alleged to have been committed, to answer further to the said charge before him or them, and to be further dealt with according to law; and (*I*) hereby further command you to deliver to the said justice or justices the information in this behalf, and also the said deposition of C. D. now given into your possession for that purpose, together with this precept.

Given under my hand and and seal, this day of , in the year of our Lord , at , in the District (*or* County, *&c.*,) of aforesaid.

J. S. [L. S.]

(R 2) *See* s. 49.

RECEIPT TO BE GIVEN TO THE CONSTABLE BY THE JUSTICE FOR THE COUNTY IN WHICH THE OFFENCE WAS COMMITTED.

Canada,
Province of ,
District (*or* County, United Counties, *or as the case may be*) of

I, J. P. one of Her Majesty's Justices of the Peace, in and for the District (*or* County, *&c.*) of , hereby certify that W. T., constable, *or* peace officer, of the District (*or* County, United Counties, *or as the case may be*) of , has on

on this day of , one thousand eight hundred and , by virtue of and in obedience to a Warrant of J. S., Esquire, one of Her Majesty's Justices of the Peace in and for the District (*or* County, United Counties, *or as the case may be*) of , produced before me, one A. B. charged before the said J, S. with having (*&c., stating shortly the offence*) and delivered him into the custody of by my direction, to answer to the said charge, and further to be dealt with according to law, and has also delivered unto me the said warrant, together with the information (*if any*) in that behalf, and the deposition (*s*) of C. D. (*and of*) in the said warrant mentioned, and that he has also proved to me upon oath, the handwriting of the said J. S. subscribed to the same.

Dated the day and year first above mentioned, at , in the said District (*or* County, *&c.*) of

J P

(S 1) *See* s. 52.

RECOGNIZANCE OF BAIL

Canada,
Province of ,
District (*or* County, United Counties, *or as the case may be*) of

Be it remembered, that on the day of in the year of our Lord , A. B. of , (*laborer,*) L. M. of (*grocer,*) and N. O. of , (*butcher,*) personally came before (*us*) the undersigned, (*two*) of Her Majesty's Justices of the Peace for the District (*or* County, United Counties, *or as the case may be,*) of and severally acknowledged themselves to owe to our Sovereign Lady the Queen, her heirs and successors, the several sums following, that is to say: the said A. B. the sum of , and the said L. M. and N. O. the sum of , each, of good and lawful current money of Canada, to be made and levied of their several goods and chattels, lands and tenements respectively, to the use of our said Sovereign Lady the Queen, her heirs and successors, if he, the said A. B., fail in the condition endorsed.

Taken and acknowledged the day and year first above mentioned, at before us.

J. S.
J. N.

CONDITION

CONDITION.

The condition of the within written recognizance is such, that whereas the said A. B. was this day charged before (*us,*) the justices within mentioned for that (*&c., as in the warrant*); if therefore the said A. B. will appear at the next Court of Oyer and Terminer (*or* General Gaol Delivery *or* Court of General or Quarter Sessions of the Peace) to be holden in and for the District (*or* County, United Counties, *or as the case may be*) of , and there surrender himself into the custody of the Keeper of the (*common gaol or lock-up house*) there, and plead to such indictment as may be found against him by the grand jury, for and in respect to the charge aforesaid, and take his trial upon the same, and not depart the said court without leave, then the said recognizance to be void, or else to stand in full force and virtue.

(S 2) *See* s. 52.

NOTICE OF THE SAID RECOGNIZANCE TO BE GIVEN TO THE ACCUSED AND HIS BAIL.

Take notice that you A. B., of , are bound in the sum of , and your sureties (L. M. and N. O.) in the sum of , each, that you A. B. appear (*&c., as in the condition of the recognizance,*) and not depart the said court without leave; and unless you, the said A. B., personally appear and plead, and take your trial accordingly, the recognizance entered into by you and your sureties shall be forthwith levied on you and them.

Dated this day of , one thousand eight hundred and

J. S.

(S 3) *See* ss. 53, 55.

WARRANT OF DELIVERANCE ON BAIL BEING GIVEN FOR A PRISONER ALREADY COMMITTED.

Canada,
Province of ,
District (*or* County,
United Counties, *or as the case may be*)
of

To the keeper of the common gaol of the District (*or* County, United Counties, *or as the case may be*) of at in

in the said District (*or* County, United Counties, *or as the case may be*)

Whereas A. B. late of (*laborer*,) hath before (*us*) (*two*) of Her Majesty's Justices of the Peace in and for the said District (*or* County, United Counties, *or as the case may be*) of , entered into his own recognizance, and found sufficient sureties for his appearance at the next Court of Oyer and Terminer or General Gaol Delivery (*or* Court of General *or* Quarter Sessions of the Peace) to be holden in and for the District (*or* County, United Counties, (*or as the case may be*) of , to answer Our Sovereign Lady the Queen, for that (*&c., as in the commitment*), for which he was taken and committed to your said common gaol: These are therefore to command you, in Her said Majesty's name, that if the said A. B. do remain in your custody in the said common gaol for the said cause, and for no other, you shall forthwith suffer him to go at large.

Given under our hands and seals, this day of , in the year of our Lord , at in the District (*or* County, *&c.*, aforesaid.

J. S, [L. S.]
J. N. [L. S.]

(T 1) *See* s. 56.

WARRANT OF COMMITMENT.

Canada,
Province of ,
District (*or* County,
United Counties, *or*
as the case may be)
of

To all or any of the constables, or other peace officers, in the District (*or* County, United Counties, *or as the case may be*) of , and to the keeper of the common gaol of the District (*or* County, United Counties, *or as the case may be*) at , in the said District (*or* County, &c.,) of

Whereas A. B. was this day charged before (*me*) J. S. (*one*) of Her Majesty's Justices of the Peace in and for the said District (*or* County, United Counties, *or as the case may be*) of on the oath of C. D., of (*farmer*), and others, for that, (*&c., stating shortly the offence*; These are

are therefore to command you the said constables or peace officers, or any of you, to take the said A. B., and him safely convey to the common gaol at aforesaid, and there deliver him to the keeper thereof; together with this Precept; And I do hereby command you the said keeper of the said common gaol to receive the said A. B., into your custody in the said common gaol, and there safely to keep him until he shall be thence delivered by due course of law.

Given under my hand and seal, this day of , in the year of Our Lord , at , in the District (*or* County, &c.,) of aforesaid

J. S. [L. S.]

(T 2) *See* s. 57.

GAOLERS' RECEIPT TO THE CONSTABLE FOR THE PRISONER.

I hereby certify that I have received from W. T., constable, of the District (*or* County, &c.,) of , the body of A. B., together with a warrant under the hand and seal of J. S., Esquire, one of Her Majesty's Justices of the Peace for the said District (*or* County, United Counties, *or as the case may be*,) of , and that the said A. B., was (sober, *or as the case may be*,) at the time he was delivered into my custody.

P. K.

Keeper of the common gaol of the said District (or County, &c,)

CHAP. 31.

An Act respecting the duties of Justices of the Peace, out of Sessions, in relation to summary convictions and orders.

[*Assented to 22nd June*, 1869.]

Preamble.

WHEREAS it is expedient to assimilate, amend and consolidate the statute law of the several Provinces of Quebec, Ontario, Nova Scotia, and New Brunswick, respecting the duties of Justices of the Peace out of Sessions in relation to summary convictions and orders, and to extend the same as so amended to all Canada: Therefore, Her Majesty, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows:—

When an information is laid, &c., before a Justice of the Peace, &c., such justices may issue a summons to the party accused.

1. In all cases where an information is laid before one or more of Her Majesty's Justices of the Peace for any territorial division of Canada, that any person, being within the jurisdiction of such justice or justices, has committed or is suspected to have committed any offence or act over which the Parliament of Canada has jurisdiction, and for which he is liable by law, upon a summary conviction for the same before a Justice or Justices of the Peace, to be imprisoned or fined, or otherwise punished, and also in all cases where a complaint is made to any such justice or justices in relation to any matter over which the Parliament of Canada has jurisdiction, and upon which he or they have authority by law to make any order for the payment of money or otherwise, such Justice or Justices of the Peace may issue his or their summons (A), directed to such person, stating shortly the matter of the information or complaint, and requiring him to appear at a certain time and place, before the same justice or justices, or before such other justice or justices of the same territorial division as may then be there, to answer to the said information or complaint, and to be further dealt with according to law.

Form of summons.

Service of summons.

2. Every such summons shall be served by a constable or other peace officer, or other person to whom the same may be delivered, upon the person to whom it is directed, by delivering the same to the party personally, or by leaving it with some person for him at his last or most usual place of abode.

Proof of service.

3. The constable, peace officer, or person who serves the same, shall attend at the time and place, and before the justice or justices in the summons mentioned, to depose, if necessary, to the service thereof.

Proviso as to *ex parte* cases.

4. But nothing hereinbefore contained shall oblige any Justice or Justices of the Peace to issue any such summons in any case where the application for any order of justices is by law to be made *ex parte*.

No objection allowed on account of defect or variance.

5. No objection shall be allowed to any information, complaint or summons, for any alleged defect therein, in substance or in form, or for any variance between such information, complaint or summons, and the evidence adduced on the part of the informant or complainant at the hearing of such information or complaint; but if any such variance appears to the justice or justices present and acting at such hearing to be such, that the person summoned and appearing has been thereby deceived or misled, such justice or justices, may, upon such terms as he or they think fit, adjourn the hearing of the case to a future day.

Proviso.

If the summons having been duly served, &c., is not obeyed, the justice may issue his warrant.

6. If the person served with a summons does not appear before the justice or justices at the time and place mentioned in the summons, and it be made to appear to the justice or justices, by oath or affirmation, that the summons was duly served what the justice or justices deem a reasonable time before the time therein appointed for appearing to the same, then the justice or justices, upon oath or affirmation being made before him or them, substantiating the matter of the information or complaint to his or their satisfaction, may, if he or they think fit, issue his or their warrant (B) to apprehend the party so summoned, and to bring him before the same justice or justices or before some other Justice or Justices of the Peace in and for the same territorial division, to answer to the said information or complaint, and to be further dealt with according to law; or the justice or justices before whom any such information is laid, for any such offence as aforesaid, punishable on conviction, upon oath or affirmation being made before him or them substantiating the matter of the information to his or their satisfaction, may, if he or they think fit, instead of issuing a summons, issue in the first instance his or their warrant (C) for apprehending the person against whom the information has been laid, and bringing him before the same justice or justices, or before some other Justice or Justices of the Peace in and for the same territorial division, to answer to the information and to be further dealt with according to law: Provided that where a warrant is issued in the first instance, the justice issuing it shall furnish a copy or copies thereof, and cause a copy to be served on each party arrested at the time of such arrest.

Warrant may issue in the first instance on information supported by oath, &c.

Proviso: Copy of warrant to be served on defendant.

Justice may proceed *ex parte*, if summons duly served is not obeyed, &c.

7. If, where a summons has been issued, and upon the day and at the place therein appointed for the appearance of the party summoned, the party fails to appear in obedience to the summons, then if it be proved upon oath or affirmation to the justice or justices present, that a summons was duly served upon the party a reasonable time before the time appointed for his appearance, the Justice or Justices of the Peace may proceed *ex parte* to the hearing of the information or complaint, and adjudicate thereon, as fully and effectually to all intents and purposes as if the party had personally appeared before him or them in obedience to the summons.

Warrant to be under hand and seal; to whom directed and what to contain.

8. Every warrant to apprehend a defendant that he may answer to an information or complaint shall be under the hand and seal or hands and seals of the justice or justices issuing the same, and may be directed to any one or more or to all of the constables (or other peace officers) of the territorial division within which it is to be executed, or to such constable and all other constables in the territorial division within which the justice or justices who issued the warrant hath

hath or have jurisdiction, or generally to all the constables (or peace officers) within such territorial division, and it shall state shortly the matter of the information or complaint on which it is founded, and shall name or otherwise describe the person against whom it has been issued, and it shall order the constables (or other peace officers) to whom it is directed, to apprehend the defendant, and to bring him before one or more Justice or Justices of the Peace, of the same territorial division, as the case may require, to answer to the information or complaint and to be further dealt with according to law.

Duration of warrant, and how to be executed.

9. It shall not be necessary to make the warrant returnable at any particular time, but the same may remain in full force until executed; and the warrant may be executed by apprehending the defendant at any place in the territorial division within which the justices who issued the same have urisdiction, or, in case of fresh pursuit, at any place in the next adjoining territorial division, within seven miles of the border of the first mentioned territorial division, without having the warrant backed as hereinafter mentioned.

What officer may execute it, and where.

10. In all cases where the warrant is directed to all constables or peace officers in the territorial division within which the justice or justices who issued the same have jurisdiction, any constable or peace officer for any place within the limits of the jurisdiction may execute the warrant in like manner as if the warrant was directed specially to him by name, and notwithstanding that the place in which the warrant is executed be not within the place for which he is a constable or peace officer.

Backing the warrant in another jurisdiction; its effect.

11. If any person against whom any warrant has been issued be not found within the jurisdiction of the justice or justices by whom it was issued, or, if he escapes into, or is, or is suspected to be in any place within Canada, out of the jurisdiction of the justice or justices who issued the warrant, any Justice of the Peace, within whose jurisdiction such person may be or be suspected to be, upon proof upon oath or affirmation of the handwriting of the justice or justices issuing the warrant, may make an endorsement upon it, signed with his name, authorizing the execution of the warrant within his jurisdiction; and such endorsement shall be a sufficient authority to the person bringing the warrant, and to all other persons to whom it was originally directed, and to all constables or other peace officers of the territorial division wherein the endorsement has been made, to execute the same in any place within the jurisdiction of the Justice of the Peace endorsing the same, and to carry the offender, when apprehended, before the justice or justices who first issued

issued the warrant or some other justice having the same jurisdiction.

No objection allowed for want of form; but adjournment in certain cases; and on what conditions.

12. No objection shall be taken or allowed to any warrant issued as aforesaid, for any alleged defect therein in substance or in form, or for any variance between it and the evidence adduced on the part of the informant or complainant, but if it appears to the justice or justices present and acting at the hearing, that the party apprehended under the warrant has been deceived or misled by any such variance, such justice or justices may, upon such terms as he or they think fit, adjourn the hearing of the case to some future day, and in the meantime commit (D) the defendant to the common gaol, or other prison, or place of security within the territorial division or place wherein the justice or justices may be acting, or to such other custody as the justice or justices think fit, or may discharge him upon his entering into a recognizance (E), with or without surety or sureties, at the discretion of the justice or justices, conditioned for his appearance at the time and place to which the hearing is so adjourned.

Where a defendant is discharged on recognizance and fails to appear, &c.

13. In all cases where a defendant is discharged upon recognizance and does not afterwards appear at the time and place in the recognizance mentioned, the justice who took the recognizance, or any justice or justices who may then be present, having certified (F) upon the back of the recognizance the non-appearance of the defendant, may transmit such recognizance to the proper officer in the Province appointed by law to receive the same, to be proceeded upon in like manner as other recognizances, and such certificate shall be deemed sufficient *primâ facie* evidence of the non-appearance of the said defendant, and the justice or justices may issue his or their warrant for the apprehension of the defendant on the information or complaint.

Description of property of partners, municipal corporations, &c., in any information or complaint, or proceedings thereon.

14. In any information or complaint or proceedings thereon, in which it is necessary to state the ownership of any property belonging to or in possession of partners, joint tenants, parceners, or tenants in common, or *par indivis*, it shall be sufficient to name one of such persons, and to state the property to belong to the person so named and another or others, as the case may be; and whenever in any information or complaint, or the proceedings thereon, it is necessary to mention, for any purpose whatsoever, any partners, joint tenants, parceners or tenants in common, or *par indivis*, it shall be sufficient to describe them in the manner aforesaid, and whenever in any information or complaint, or the proceedings thereon, it is necessary to describe the ownership of any work or building made, maintained or repaired at

at the expense of the corporation or inhabitants of any territorial division or place, or of any materials for the making, altering or repairing the same, they may be therein described as the property of the inhabitants of such territorial division or place.

Aiders and abettors of offences punishable on summary conviction, how liable.

15. Every person who aids, abets, counsels or procures the commission of any offence which is punishable on summary conviction, shall be liable to be proceeded against and convicted for the same, either together with the principal offender, or before or after his conviction, and shall be liable, on conviction, to the same forfeiture and punishment as the principal offender, and may be proceeded against and convicted either in the territorial division or place where the principal offender may be convicted, or in that in which the offence of aiding, abetting, counselling, or procuring was committed.

Summons to person likely to give material evidence.

16. If it be made to appear to any Justice of the Peace, by the oath or affirmation of any credible person, that any person within the jurisdiction of such justice is likely to give material evidence on behalf of the prosecutor or complainant or defendant, and will not voluntarily appear as a witness at the time and place appointed for the hearing of the information or complaint, the justice shall issue his summons (G 1) to such person, requiring him to be and appear at a time and place mentioned in the summons, before the said justice, or any other Justice or Justices of the Peace for the territorial division, who may then be there, to testify what he knows concerning the information or complaint.

Warrant if such person fails to appear.

17. If any person so summoned neglects or refuses to appear at the time and place appointed by the summons, and no just excuse be offered for such neglect or refusal, then (after proof upon oath or affirmation of the summons having been served upon him, either personally or by leaving the same for him with some person, at his last or most usual place of abode) the justice or justices before whom such person should have appeared may issue a warrant (G 2) to bring and have such person, at a time and place to be therein mentioned, before the justice who issued the summons, or before any other Justice or Justices of the Peace for the same territorial division who may be then there, to testify as aforesaid, and the said warrant may, if necessary, be backed as hereinbefore mentioned, in order to its being executed out of the jurisdiction of the justice who issued the same.

May be backed.

Warrant in the first instance.

18. If the justice is satisfied, by evidence upon oath or affirmation, that it is probable that the person will not attend to give evidence without being compelled so to do, then instead

instead of issuing a summons he may issue his warrant (G 3) in the first instance, and the warrant may, if necessary, be backed as aforesaid.

Commitment for refusal to give evidence.

19. If on the appearance of the person so summoned before the last mentioned justice or justices, either in obedience to the summons, or upon being brought before him or them, by virtue of the warrant, such person refuses to be examined upon oath or affirmation concerning the premises, or refuses to take an oath or affirmation, or having taken the oath or affirmation refuses to answer such questions concerning the premises as are then put to him, without offering any just excuse for his refusal, any Justice of the Peace then present, and having jurisdiction, may, by warrant (G 4), commit the person so refusing to the common gaol or other prison for the territorial division where the person then is, there to remain and be imprisoned for any time not exceeding ten days, unless in the meantime he consents to be examined and to answer concerning the premises.

Certain complaints need not be in writing, &c.

20. In all cases of complaint upon which a Justice or Justices of the Peace may make an order for the payment of money or otherwise, it shall not be necessary that such complaint be in writing unless it be required to be so by some particular Act or law upon which such complaint is framed.

Certain variances as to time and place, between information and evidence not material.

21. In all cases of informations for offences or acts punishable upon summary conviction, any variance between the information and the evidence adduced in support thereof as to the time at which such offence or act is alleged to have been committed, shall not be deemed material, if it be proved that such information was in fact laid within the time limited by law for laying the same; and any variance between the information and the evidence adduced in support thereof, as to the place in which the offence or act is alleged to have been committed, shall not be deemed material, if the offence or act be proved to have been committed within the jurisdiction of the justice or justices by whom the information is heard and determined.

But if the defendant has been misled, justice may adjourn the case; and on what conditions.

22. If any such variance, or any other variance between the information and the evidence adduced in support thereof, appears to the justice or justices present, and acting at the hearing, to be such that the party charged by the information has been thereby deceived or misled, the justice or justices, upon such terms as he or they think fit, may adjourn the hearing of the case to some future day, and in the meantime commit (D) the defendant to the common gaol, or other prison, or to such other custody as the justice or justices think fit, or may discharge him upon his entering into a recognizance

cognizance (E), with or without surety or sureties, at the discretion of the justice or justices, conditioned for his appearance at the time and place to which the hearing is adjourned.

Defendant bailed and not appearing at proper time.

23. In all cases where a defendant has been discharged upon recognizance as aforesaid, and does not afterwards appear at the time and place in the recognizance mentioned, the justice who took the recognizance, or any other justice or justices who may then be there present, having certified (F) upon the back of the recognizance the non-appearance of the defendant, may transmit the recognizance to the proper officer in the Province appointed by law to receive the same, to be proceeded upon in like manner as other recognizances, and the certificate shall be deemed sufficient *primâ facie* evidence of the non-appearance of the defendant.

Complaints, &c., need not be on oath, unless specially so provided.

24. All complaints upon which a Justice or Justices of the Peace are authorized by law to make an order, and all informations for any offence or act punishable upon summary conviction, unless some particular Act or law otherwise requires, and except in cases where it is herein otherwise provided, may respectively be made or laid without any oath or affirmation as to the truth thereof.

Except where warrant is issued in the first instance.

25. But in all cases of informations, where the justice or justices receiving the same, thereupon issue his or their warrant in the first instance, to apprehend the defendant, and in every case where the justice or justices issue his or their warrant in the first instance, the matter of the information shall be substantiated by the oath or affirmation of the informant, or by some witness or witnesses on his behalf, before the warrant shall be issued; and every complaint shall be for one matter of complaint only and not for two or more matters of complaint, and every information shall be for one offence only, and not for two or more offences, and every complaint or information may be laid or made by the complainant or informant in person, or by his counsel or attorney, or other person authorized in that behalf.

Complaint or information to be for one matter only; may be made by attorney.

When no time is limited for information or complaint.

26. In all cases where no time is specially limited for making any complaint or laying any information in the Act or law relating to the particular case, the complaint shall be made and the information shall be laid within three months from the time when the matter of the complaint or information arose, except in that part of the County of Saguenay which extends from Portneuf in the said county, to the eastward as far as the limits of Canada, including all the islands adjoining thereto, where the time within which such complaint shall be made, or such information shall be laid, shall be extended to

Exception as to part of County of Saguenay.

to twelve months from the time when the matter of the complaint or information arose.

As to the hearing of complaints and information.

27. Every complaint and information shall be heard, tried, determined and adjudged by one Justice or two or more Justices of the Peace, as may be directed by the Act or law upon which the complaint or information is framed, or by any other Act or law in that behalf.

If there be no direction in the Act.

28. If there be no such direction in any Act or law, then the complaint or information may be heard, tried, determined and adjudged by any one justice for the territorial division where the matter of the complaint or information arose.

To be deemed an open Court.

29. The room or place in which the justice or justices sit to hear and try any complaint or information, shall be deemed an open and public court to which the public generally may have access, so far as the same can conveniently contain them.

Defendant may make full defence, and produce witnesses.

30. The party against whom the complaint is made or information laid, shall be admitted to make his full answer and defence thereto, and to have the witnesses examined and cross-examined by counsel or attorney on his behalf.

Prosecutor may be heard by counsel or attorney.

31. Every complainant or informant in any such case shall be at liberty to conduct the complaint or information, and to have the witnesses examined and cross-examined by counsel or attorney on his behalf.

In case the defendant does not appear.

32. If on the day and at the place appointed by the summons for hearing and determining the complaint or information, the defendant against whom the same has been made or laid does not appear when called, the constable, or other person who served him with the summons, shall declare upon oath in what manner he served the summons; and if it appear to the satisfaction of the justice or justices that he duly served the summons, then the justice or justices may proceed to hear and determine the case in the absence of the defendant, or the justice or justices, upon the non-appearance of the defendant, may, if he or they think fit, issue his or their warrant in manner hereinbefore directed, and shall adjourn the hearing of the complaint or information until the defendant is apprehended.

Proceeding *ex parte*, or warrant and adjournment.

When defendant has been apprehended, &c.

33. When the defendant has been apprehended under the warrant, he shall be brought before the same justice or justices, or some other Justice or Justices of the Peace for the same territorial division, who shall thereupon, either by his or their warrant (H) commit the defendant to the common gaol,

gaol, or other prison, or if he or they think fit, verbally to the custody of the constable or other person who apprehended him, or to such other safe custody as he or they deem fit, and may order the defendant to be brought up at a certain time and place before him or them, of which order the complainant or informant shall have due notice, but no committal under this section shall be for more than one week.

Proviso.

If defendant appears, &c., and the complainant does not; discharge or adjournment on recognizance.

34. If upon the day and at the place so appointed, the defendant appears voluntarily in obedience to the summons in that behalf served upon him, or is brought before the justice or justices by virtue of a warrant, then, if the complainant or informant, having had due notice, does not appear by himself, his counsel or attorney, the justice or justices shall dismiss the complaint or information, unless for some reason he or they think proper to adjourn the hearing of the same until some other day, upon such terms as he or they think fit, in which case the justice or justices may commit (D) the defendant in the meantime to the common gaol, or other prison, or to such other custody as he or they think fit, or may discharge him upon his entering into a recognizance (E) with or without surety or sureties, at the discretion of the justice or justices, conditioned for his appearance at the time and place to which such hearing may be adjourned.

If defendant afterwards fails to appear, &c.

35. If the defendant does not afterwards appear at the time and place mentioned in his recognizance, then the justice who took the recognizance, or any justice or justices then and there present, having certified (F) on the back of the recognizance the non-appearance of the defendant, may transmit the recognizance to the proper officer appointed to receive the same, to be proceeded upon in like manner as other recognizances, and such certificate shall be deemed sufficient *primâ facie* evidence of the non-appearance of the defendant.

If both parties appear.

36. If both parties appear, either personally or by their respective counsel or attorneys, before the justice or justices who are to hear and determine the complaint or information, then the said justice or justices shall proceed to hear and determine the same.

Proceedings on the hearing.

37. In case the defendant be present at the hearing, the substance of the information or complaint shall be stated to him, and he shall be asked if he has any cause to shew why he should not be convicted, or why an order should not be made against him, as the case may be.

Justice may convict, &c., if defendant

38. If he thereupon admits the truth of the information or complaint, and shows no sufficient cause why he should not be convicted, or why an order should not be made against him, as

as the case may be, the justice or justices present at the hearing, shall convict him or make an order against him accordingly. admits the truth.

39. If he does not admit the truth of the information or complaint, the justice or justices shall proceed to hear the prosecutor or complainant and such witnesses as he may examine, and such other evidence as he may adduce in support of his information or complaint, and shall also hear the defendant and such witnesses as he may examine, and such other evidence as he may adduce in his defence, and also hear such witnesses as the prosecutor or complainant may examine in reply, if such defendant has examined any witnesses or given any evidence other than as to his [the defendant's] general character. If he does not admit the truth, &c., examination of witnesses, &c.

40. The prosecutor or complainant shall not be entitled to make any observations in reply, upon the evidence given by the defendant, nor shall the defendant be entitled to make any observations in reply upon the evidence given by the prosecutor or complainant in reply. As to observations by either party.

41. The justice or justices, having heard what each party has to say, and the witnesses and evidence adduced, shall consider the whole matter and, unless otherwise provided, determine the same, and convict or make an order upon the defendant, or dismiss the information or complaint as the case may be. Decision of the case.

42. If he or they convict or make an order against the defendant, a minute or memorandum thereof shall then be made, for which no fee shall be paid, and the conviction (I 1, 2, 3) or order (K 1, 2, 3) shall afterwards be drawn up by the justice or justices in proper form, under his or their hand and seal or hands and seals. Minute of conviction to be made.

43. If the justice or justices dismiss the information or complaint, he or they may, when required so to do, make an order of dismissal of the same (L), and shall give the defendant a certificate thereof (M), which certificate upon being afterwards produced, shall without further proof, be a bar to any subsequent information or complaint for the same matter, against the same party. Certificate if he dismiss the complaint, &c.

44. If the information or complaint in any case negatives any exemption, exception, proviso, or condition in the Statute on which the same is framed, it shall not be necessary for the prosecutor or complainant to prove such negative, but the defendant may prove the affirmative thereof in his defence, if he would have advantage of the same. If information or complaint, negatives any exemption, &c.

45.

Prosecutors and complainants in certain cases to be competent witnesses and examined upon oath, &c.

45. Every prosecutor of any information not having any pecuniary interest in the result, and every complainant in any complaint whatever his interest may be in the result of the same, shall be a competent witness to support such information or complaint; and every witness at any hearing shall be examined upon oath or affirmation, and the justice or justices before whom any witness appears for the purpose of being examined, shall have full power and authority to administer to every witness the usual oath or affirmation: provided that no prosecutor shall be deemed incompetent as a witness on the ground only that he may be liable to costs.

Proviso.

Justice may adjourn hearing of any case and commit defendant or suffer him to go at large on recognizance.

46. Before or during the hearing of any information or complaint, any one justice or the justices present, may in his or their discretion, adjourn the hearing of the same to a certain time and place to be then appointed and stated in the presence and hearing of the party or parties, or of their respective attorneys or agents then present, and in the meantime the justice or justices may suffer the defendant to go at large or may commit (D) him to the common gaol or other prison, within the territorial division for which the justice or justices are then acting, or to such other safe custody as the justice or justices think fit, or may discharge the defendant upon his recognizance (E), with or without sureties, at the discretion of the justice or justices, conditioned for his appearance at the time and place to which such hearing or further hearing is adjourned, but no such adjournment shall be for more than one week.

Proviso.

If defendant or prosecutor do not appear, the case may nevertheless be heard.

47. If, at the time and place to which the hearing or further hearing has been adjourned, either or both of the parties do not appear, personally or by his or their counsel or attorneys respectively, before the justice or justices or such other justice or justices as may then be there, the justice or justices then there present may proceed to the hearing or further hearing as if the party or parties were present.

If the prosecutor does not appear.

48. If the prosecutor or complainant do not appear, the justice or justices may dismiss the information with or without costs, as to him or them seems fit.

If defendant fails to reappear, &c.

49. In all cases when a defendant is discharged upon his recognizance, and does not afterwards appear at the time and place mentioned in the recognizance, the justice or justices who took the recognizance, or any other justice or justices who may then be there present, having certified (F) on the back of the recognizance the non-appearance of the accused party, may transmit such recognizance to the proper officer appointed to receive the same by the laws of the Province in which the recognizance was taken, to be proceeded upon in like

like manner as other recognizances, and such certificate shall be deemed sufficient *primâ facie* evidence of the non-appearance of the defendant.

Form of convictions may be as in schedule where no form is given in any future Statute.

50. In all cases of conviction where no particular form of conviction is given by the Act or law creating the offence or regulating the prosecution for the same, and in all cases of conviction upon Acts or laws hitherto passed, whether any particular form of conviction has been therein given or not, the justice or justices who convict, may draw up his or their conviction, on parchment or on paper, in such one of the forms of conviction (I 1, 2, 3) as may be applicable to the case, or to the like effect.

Where no special form of order is so given, form in schedule may be adopted.

51. In case an order be made, and no particular form of order is given by the Act or law giving authority to make such order, and in all cases of orders made under the authority of any Acts or laws hitherto passed, whether any particular form of order is therein given or not, the justice or justices by whom the order is made, may draw up the same in such one of the forms of orders (K 1, 2, 3) as may be applicable to the case, or to the like effect.

Defendant to be served with copy of the minute before distress or commitment.

52. In all cases when by any Act or law authority is given to commit a person to prison, or to levy any sum upon his goods or chattels by distress, for not obeying an order of a justice or justices, the defendant shall be served with a copy of the minute of the order before any warrant of commitment or of distress is issued in that behalf, and the order or minute shall not form any part of the warrant of commitment or of distress.

Justices may award costs not inconsistent with the fees established by law.

53. In all cases of summary conviction, or of orders made by a Justice or Justices of the Peace, the justice or justices making the same may, in his or their discretion, award and order in and by the conviction or order, that the defendant shall pay to the prosecutor or complainant such costs as to the said justice or justices seem reasonable in that behalf, and not inconsistent with the fees establishd by law to be taken on proceedings had by and before Justices of the Peace.

Costs may be awarded to defendant when the case is dismissed.

54. In cases where the justice or justices, instead of convicting or making an order, dismiss the information or complaint, he or they, in his or their discretion, may, in and by his or their order of dismissal, award and order that the prosecutor or complainant shall pay to the defendant such costs as to the said justice or justices seem reasonable and consistent with law.

Costs so allowed shall be specified.

55. The sums so allowed for costs shall, in all cases, be specified in the conviction or order, or order of dismissal, and the

the same shall be recoverable in the same manner and under the same warrants as any penalty adjudged to be paid by the conviction or order is to be recovered.

And may be recovered by distress.

56. In cases where there is no such penalty to be recovered, such costs shall be recoverable by distress and sale of the goods and chattels of the party, and in default of distress, by imprisonment, with or without hard labour, for any time not exceeding one month, unless the costs be sooner paid.

Justices may issue warrant of distress in cases where a pecuniary penalty, &c, has been adjudged.

57. Where a conviction adjudges a pecuniary penalty or compensation to be paid, or where an order requires the payment of a sum of money, and by the Act or law authorizing such conviction or order, the penalty, compensation, or sum of money is to be levied upon the goods and chattels of the defendant, by distress and sale thereof; and also in cases where, by the Act or law in that behalf, no mode of raising or levying the penalty, compensation or sum of money, or of enforcing the payment of the same, is stated or provided, the justice or any one of the justices making such conviction or order, or any Justice of the Peace for the same territorial division, may issue his warrant of distress (N 1, 2) for the purpose of levying the same, which warrant of distress shall be in writing, under the hand and seal of the justice making the same.

In certain cases warrant may be backed for execution in another jurisdiction.

58. If, after delivery of the warrant of distress to the constable or constables to whom the same has been directed to be executed, sufficient distress cannot be found within the limits of the jurisdiction of the justice granting the warrant, then upon proof being made upon oath or affirmation of the handwriting of the justice granting the warrant, before any justice of any other territorial division, such justice shall thereupon make an endorsement (N 3) on the warrant, signed with his hand, authorizing the execution of the warrant within the limits of his jurisdiction, by virtue of which warrant and endorsement the penalty or sum, and costs, or so much thereof as may not have been before levied or paid, shall be levied by the person bringing the warrant, or by the person or persons to whom the warrant was originally directed, or by any constable or other peace officer of the last mentioned territorial division, by distress and sale of the goods and chattels of the defendant therein.

When the issuing of a warrant would be ruinous to defendant, or there are no goods, Justice

59. Whenever it appears to any Justice of the Peace to whom application is made for any warrant of distress, that the issuing thereof would be ruinous to the defendant and his family, or whenever it appears to the justice, by the confession of the defendant or otherwise, that he hath no goods and chattels whereon to levy such distress, then the justice, if

if he deems it fit, instead of issuing a warrant of distress, may (O 1, 2) commit the defendant to the common gaol, or other prison in the territorial division, there to be imprisoned with or without hard labour, for the time and in the manner the defendant could by law be committed in case such warrant of distress had issued, and no goods or chattels had been found whereon to levy the penalty or sum and costs. may commit him.

60. In all such cases where a Justice of the Peace issues any warrant of distress, he may suffer the defendant to go at large or verbally, or by a written warrant in that behalf, may order the defendant to be kept and detained in safe custody, until return has been made to the warrant of distress, unless the defendant gives sufficient security, by recognizance or otherwise, to the satisfaction of the justice, for his appearance before him at the time and place appointed for the return of the warrant of distress, or before such other justice or justices for the same territorial division, as may then be there. When distress is issued, defendant may be bailed or detained until it is returned.

61. In all such cases where a defendant gives security by recognizance, and does not afterwards appear at the time and place in the said recognizance mentioned, the justice who hath the same, or any justice or justices who may then be there present, upon certifying (F) on the back of the recognizance the non-appearance of the defendant, may transmit the recognizance to the proper officer appointed by law to receive the same, to be proceeded upon in like manner as other recognizances, and such certificate shall be deemed sufficient *primâ facie* evidence of the non-appearance of the defendant. If defendant does not afterwards appear, the recognizance to be certified and transmitted to the proper officer.

62. If at the time and place appointed for the return of any warrant of distress, the constable, who has had the execution of the same returns (N 4) that he could find no goods or chattels whereon he could levy the sum or sums therein mentioned, together with the costs of, or occasioned by the levy of the same, the Justice ot the Peace, before whom the same is returned may issue his warrant of commitment (N 5) directed to the same or any other constable, reciting the conviction or order shortly, the issuing of the warrant of distress, and the return thereto, and requiring the constable to convey the defendant to the common gaol or other prison of the territorial division for which the justice is then acting, and there to deliver him to the keeper thereof, and requiring the keeper to receive the defendant into such gaol or prison, and there to imprison him, or to imprison him and keep him to hard labor in the manner and for the time directed by the Act or law on which the conviction or order mentioned in the warrant of distress is founded, unless the sum or sums adjudged to be paid, and all costs and charges of the distress, and also the costs and charges In default of sufficient distress, Justice may commit defendant to prison.

charges of the commitment and conveying of the defendant to prison, if such justice thinks fit so to order (the amount thereof being ascertained and stated in such commitment,) be sooner paid; but if no term of imprisonment be specified in the Act or law, the period for which the justice shall order the defendant to be so imprisoned shall not exceed three months.

Proviso: Term limited.

Imprisonment for a subsequent offence to commence at expiration of that for a previous offence.

63. Where a Justice or Justices of the Peace, upon any information or complaint adjudges or adjudge the defendant to be imprisoned, and the defendant is then in prison undergoing imprisonment upon conviction for any other offence, the warrant of commitment for the subsequent offence shall be forthwith delivered to the gaoler or other officer to whom it is directed, and the justice or justices who issued the same, if he or they think fit, may award and order therein, that the imprisonment for the subsequent offence shall commence at the expiration of the imprisonment to which the defendant was previously sentenced.

If information be dismissed, costs may be recovered by distress on prosecutor.

64. When any information or complaint is dismissed with costs, the sum awarded for costs in the order for dismissal may be levied by distress [Q 1] on the goods and chattels of the prosecutor or complainant in the manner aforesaid; and in default of distress or payment, the prosecutor or complainant may be committed [Q 2] to the common gaol or other prison, in manner aforesaid, for any time not exceeding one month, unless such sum, and all costs and charges of the distress, and of the commitment and conveying of the prosecutor or complainant to prison (the amount thereof being ascertained and stated in the commitment,) be sooner paid.

Parties aggrieved may appeal in certain cases to the Court of General or Quarter Sessions, &c.

65. In all cases where the sum adjudged to be paid on any summary conviction or order exceeds ten dollars or the imprisonment adjudged exceeds one month, or the conviction has taken place before, or the order has been made by one justice only, (unless it be otherwise provided in the special Act under which the conviction takes place) any person who thinks himself aggrieved by any such conviction or order, may appeal in the Province of Quebec or Ontario, to the next Court of General or Quarter Sessions of the Peace, which shall be holden not less than twelve days after the day of such conviction or order, for the district, county or place wherein the cause of the complaint has arisen, or, in the Province of Quebec, to any other court for the time being discharging the functions of such Court of General or Quarter Sessions, in and for such district, in the Province of Nova Scotia to the next term or sitting of the Supreme Court in the county, and in the Province of New Brunswick to a judge

judge of the Supreme Court or of the County Court of the county where the cause of the information or complaint has arisen: Provided that such person shall give to the prosecutor or complainant a notice in writing of such appeal, and of the cause and matter thereof, within four days after such conviction or order, and eight days at the least, before the holding of such court, and shall also either remain in custody until the holding of the court, or shall enter into a recognizance, with two sufficient sureties, before a Justice or Justices of the Peace, conditioned personally to appear at the said court and to try such appeal, and to abide the judgment of the court thereupon, and to pay such costs as shall be by the court awarded; or if such appeal is against any conviction or order whereby only a penalty or sum of money is adjudged to be paid, shall deposit with the justice or justices convicting or making the order such a sum of money as such justice or justices deem to be sufficient to cover the sum so adjudged to be paid, together with the costs of the conviction or order and the costs of the appeal; and upon such notice being given and such recognizance being entered into, or such deposit being made, the justice or justices before whom such recognizance is entered into, or such deposit has been made, shall liberate such person, if in custody; and the said court shall hear and determine the matter of the appeal, and shall make such order therein, with or without costs to either party, as to the court seems meet; and in case of the dismissal of the appeal, or the affirmance of the conviction or order, shall order and adjudge the offender to be punished according to the conviction, or the defendant to pay the amount adjudged by the said order and to pay such costs as may be awarded, and shall, if necessary, issue process for enforcing such judgment; and in any case where, after any such deposit has been made as aforesaid, the conviction or order is affirmed, the court may order the sum thereby adjudged to be paid, together with the costs of the conviction or order, and the costs of the appeal to be paid out of the money deposited, and the residue thereof, if any, to be repaid to the defendant; and in any case where, after any such deposit, the conviction or order is quashed, the court shall order the money deposited to be repaid to the defendant, and in every case where any conviction or order is quashed on appeal as aforesaid, the Clerk of the Peace or other proper officer shall forthwith endorse on the conviction or order a memorandum that the same has been quashed; and whenever any copy or certificate of such conviction or order is made, a copy of such memorandum shall be added thereto, and shall be sufficient evidence that the conviction or order has been quashed in every case where such copy or certificate would be sufficient evidence of such conviction or order.

Proviso: Appellant to give security or bail.

Or deposit such sum of money as will cover amount of judgment and costs.

Court to determine the matter: and may order payment, &c.

In case conviction or order is quashed, the Court to order repayment of deposit to appellant, and a memorandum to be endorsed on the conviction or order.

Court appealed to may empannel a jury to try the case.

. When an appeal has been lodged in due form and in compliance with the requirements of this Act, against any summary conviction or decision, the Court of General or Quarter Sessions of the Peace or court appealed to may, at the request of either appellant or respondent, empannel a jury to try the facts of the case, and shall administer to such jury the following oath :—

Oath of Juror.

"You shall well and truly try the facts in dispute in the matter of A. B., (*the informant*) against C. D., (*the defendant*), and a true verdict give according to the evidence: So help you God."

Judgment

Proviso; as to evidence.

And the court, on the finding of the jury, shall give such judgment as the law requires; and if a jury be not so demanded, the court shall try and be the absolute judges as well of the fact as of the law in respect to such conviction or decision; but no witness shall in either case be examined who was not examined before the justice or justices at the hearing of the case.

Appeal not to be based on alleged defect in form or substance, unless the same was objected to before the Justice, and he refused to adjourn the case, &c.

67. No judgment shall be given in favor of the appellant if the appeal is based on an objection to any information, complaint or summons, or to any warrant to apprehend a defendant, issued upon any such information, complaint or summons, for any alleged defect therein in substance or in form, or for any variance between such information, complaint, summons or warrant and the evidence adduced in support thereof at the hearing of such information or complaint,—unless it shall be proved before the court hearing the appeal that such objection was made before the Justice or Justices of the Peace before whom the case was tried and by whom such conviction, judgment or decision was given—nor unless it is proved that notwithstanding it was shewn to such Justice or Justices of the Peace that by such variance the person summoned and appearing or apprehended, had been deceived or misled, such justice or justices refused to adjourn the hearing of the case to some further day, as provided by this Act.

Decision to be given on the merits, notwithstanding defect of form in conviction, which may be amended.

68. In all cases of appeal from any summary conviction or order had or made before any Justice or Justices of the Peace, the court to which such appeal is made shall hear and determine the charge or complaint on which such conviction or order has been had or made upon the merits, notwithstanding any defect of form or otherwise in such conviction or order; and if the person charged or complained against is found guilty the conviction or order shall be affirmed and the court shall amend the same if necessary, and any conviction or order so affirmed or affirmed and amended shall be enforced

enforced in the same manner as convictions or orders affirmed in appeal.

If appeal is abandoned, after notice given, costs to be recovered.

69. And for the more effectual prevention of frivolous appeals, the Court of General or Quarter Sessions of the Peace or other court or judge to whom an appeal is made, upon proof of notice of the appeal to such court having been given to the person entitled to receive the same, though such appeal was not afterwards prosecuted or entered, may, if such appeal has not been abandoned according to law, at the same court for which such notice was given, order to the party or parties receiving the same such costs and charges as by the said court or judge may be thought reasonable and just, to be paid by the party or parties giving such notice, such costs to be recoverable in the manner provided by this Act for the recovery of costs upon an appeal against an order or conviction.

Proceedings after appeal.

70. In case an appeal against any conviction or order be decided in favor of the respondents, the justice or justices who made the conviction or order, or any other Justice of the Peace for the same territorial division, may issue the warrant of distress or commitment for execution of the same, as if no appeal had been brought.

No *certiorari*, &c.

71. No conviction, or order or adjudication made in appeal therefrom, shall be quashed for want of form, or be removed by *certiorari* into any of Her Majesty's Superior Courts of Record; and no warrant of commitment shall be held void by reason of any defect therein, provided it be therein alleged that the party has been convicted and there be a good and valid conviction to sustain the same.

Justice convicting to return the conviction.

72. Every Justice of the Peace before whom any person shall be summarily convicted of any offence by virtue of this Act, shall transmit the conviction to the Court of General or Quarter Sessions or to the court discharging the functions of the Court of General or Quarter Sessions as aforesaid, or to any other court or judge to which the right to appeal is given by section sixty-five of this Act, as the case may be, in and for the district, county or place wherein the offence has been committed, before the time when an appeal from such conviction could be heard, there to be kept by the proper officer among the records of the court; and if such conviction has been appealed against, and a deposit of money made, shall return the deposit into the said court; and upon any indictment or information against any person for a subsequent offence, a copy of such conviction, certified by the proper officer of the court, or proved to be a true copy, shall be sufficient evidence to prove a conviction for the former offence and

And the deposit money if any.

Certificate of conviction.

and the conviction shall be presumed to have been unappealed against, until the contrary be shown.

Effect of conviction if no appeal.

73. In all cases where it appears by the conviction, that the defendant has appeared and pleaded, and the merits have been tried, and that the defendant has not appealed against the conviction where an appeal is allowed, or if appealed against, the conviction has been affirmed, such conviction shall not afterwards be set aside or vacated in consequence of any defect of form whatever, but the construction shall be such a fair and liberal construction as will be agreeable to the justice of the case.

To whom costs to be payable.

74. If upon any appeal the court trying the appeal orders either party to pay costs, the order shall direct the costs to be paid to the Clerk of the Peace or other proper officer of the court, to be by him paid over to the party entitled to the same, and shall state within what time the costs shall be paid.

Enforcement of payment

75. If the same be not paid within the time so limited, and the party ordered to pay the same has not been bound by any recognizance conditioned to pay such costs, the Clerk of the Peace or his deputy, on application of the party entitled to the costs, or of any person on his behalf and on payment of any fee to which he may be entitled, shall grant to the party so applying, a Certificate [R] that the costs have not been paid, and upon production of the certificate to any Justice or Justices of the Peace for the same territorial division, he or they may enforce the payment of the costs by Warrant of Distress [S 1] in manner aforesaid, and in default of distress he or they may commit [S 2] the party against whom the warrant has issued in manner hereinbefore mentioned, for any time not exceeding two months, unless the amount of the costs and all costs and charges of the distress and also the costs of the commitment and conveying of the party to prison, if the justice or justices think fit so to order (the amount thereof being ascertained and stated in the commitment), be sooner paid.

By distress or imprisonment.

Justices to make returns to the Quarter Sessions of all convictions and fines, &c.

76. Every Justice of the Peace, shall make a return in writing under his hand of all convictions made by him to the next ensuing General or Quarter Sessions of the Peace, or to the next term or sitting of any court having jurisdiction in appeal as hereinbefore provided, at which, in either case, the appeal can be heard, for the district or county or place in which such conviction takes place, and of the receipt and application by him of the moneys received from the defendants (and in the case of any convictions before two or more justices, such justices, being present and joining therein, shall

shall make a joint return thereof,) in the following form:—

RETURN of Convictions made by me (*or* us, *as the case may be*) in the month of 18

Name of the Prosecutor.	Name of the Defendant.	Nature of the charge.	Date of Conviction.	Name of Convicting Justice.	Amount of penalty, fine or damage.	Time when paid or to be paid to said Justice	To whom paid over by said Justice.	If not paid, why not, and general observations, if any.

A. B., Convicting Justice,

or

A. B. and C. D., Convicting Justices, (*as the case may be.*)

Return of subsequent receipts, &c.

77. And any justice or justices to whom any such moneys may be afterwards paid, shall make a return of the receipts and application thereof, to the next General or Quarter Sessions of the Peace, or other court as aforesaid, which return shall be filed by the Clerk of the Peace, with the records of his office.

Penalty on Justices of the Peace neglecting to comply with the provisions of this Act as to returns, &c.

78. In case the justice or justices, before whom any such conviction takes place or who receives any such moneys, neglect or refuse to make such return thereof, or in case any such justice or justices wilfully make a false, partial or incorrect return, or wilfully receive a larger amount of fees than by law they are authorized to receive, such justice or jurtices, so neglecting, or refusing, or wilfully making such false, partial or incorrect return, or wilfully receiving a larger amount of fees as aforesaid, shall forfeit and pay the sum

sum of eighty dollars, together with full costs of suit, to be recovered by any person suing for the same by action of debt or information in any Court of Record in the Province in which such return ought to have been or is made,—one moiety whereof shall be paid to the party suing, and the other moiety into the hands of Her Majesty's Receiver General to and for the public uses of the Dominion.

Actions for such penalties limited to six months after cause.

79. All prosecutions for penalties arising under the provisions of the next preceding section shall be commenced within six months next after the cause of action accrues, and the same shall be tried in the district, county or place wherein such penalties have been incurred, and if a verdict or judgment passes for the defendant, or the plaintiff becomes nonsuit, or discontinues the action after issue joined, or if upon demurrer, or otherwise, judgment be given against the plaintiff, the defendant shall recover his full costs of suit, as between attorney and client, and shall have the like remedy for the same, as any defendant hath by law in other cases.

Clerk of the Peace, &c., to publish and post up the returns so made.

80. The Clerk of the Peace of the district or county in which any such returns are made or the proper officer, other than the Clerk of the Peace, to whom such returns are made shall, within seven days after the adjournment of the next ensuing General or Quarter Sessions, or of the term or sitting of such other court as aforesaid, cause the said returns to be published in one public newspaper in the district or county, or if there be no such newspaper, then in a newspaper of an adjoining district or county, and shall also fix up in the Court House of the district or county and also in a conspicuous place in the office of such Clerk of the Peace, for public inspection, a schedule of the returns so made by such justices; and the same shall continue to be so fixed up, and exhibited until the end of the next ensuing General or Quarter Sessions of the Peace or of the term or sitting of such other court as aforesaid, and for every schedule so made and exhibited by the said Clerk of the Peace, he shall be allowed the expense of publication, and such fee as may be fixed by competent authority.

Copy of returns to be sent to Minister of Finance.

81. The Clerk of the Peace or other officer as last aforesaid of each district or county, within twenty days after the end of each General or Quarter Sessions of the Peace, or the sitting of such court as aforesaid, shall transmit to the Minister of Finance a true copy of all such returns made within his district or county.

Not to prevent prosecution of a Justice in default.

82. Nothing in the six next preceding sections shall have the effect of preventing any person aggrieved, from prosecuting by indictment, a Justice of the Peace, for any offence, the

the commission of which would subject him to indictment at the time of the coming into force of this Act

In case of tender or payment of the amount of distress.

83. In all cases where a warrant of distress has issued against any person, and such person pays or tenders to the constable having the execution of the same, the sum or sums in the warrant mentioned, together with the amount of the expenses of the distress up to the time of payment or tender, the constable shall cease to execute the same.

Payment may be made to the keeper of the prison.

84. In all cases in which any person is imprisoned for non-payment of any penalty or other sum, he may pay or cause to be paid to the keeper of the prison in which he is imprisoned, the sum in the warrant of commitment mentioned, together with the amount of the costs, charges and expenses (if any) therein also mentioned, and the keeper shall receive the same, and shall thereupon discharge the person, if he be in his custody for no other matter.

In what cases one Justice may act.

85. In all cases of summary proceedings before a Justice or Justices of the Peace out of Sessions, upon any information or complaint, one justice may receive the information or complaint, and grant a summons or warrant thereon, and issue his summons or warrant to compel the attendance of any witnesses for either party, and do all other acts and matters necessary, preliminary to the hearing, even in cases where by the statute in that behalf the information or complaint must be heard and determined by two or more justices.

After hearing, &c.

86. After a case has been heard and determined, one justice may issue all warrants of distress or commitment thereon.

Proceedings after judgment.

87. It shall not be necessary that the justice who acts before or after the hearing, be the justice or one of the justices by whom the case is or was heard and determined.

In case two Justices are required.

88. In all cases where by any Act or law it is required that an information or complaint shall be heard and determined by two or more justices, or that a conviction or order shall be made by two or more justices such justices must be present and acting together during the whole of the hearing and determination of the case.

Amount to be paid to party aggrieved limited.

89. When several persons join in the commission of the same offence and upon conviction thereof, each is adjudged to forfeit a sum equivalent to the value of the property, or to the amount of the injury done, no further sum shall be paid to the party aggrieved than the amount forfeited by one of such offenders only, and the corresponding sum, forfeited by the other offender, shall be applied in the same manner as other

other penalties imposed by a Justice or Justices of the Peace are directed to be applied.

Party aggrieved and certain others may be witnesses.

90. The evidence of the party aggrieved and also the evidence of any inhabitant of the district, county or place in which any offence has been committed, shall be admitted in proof of the offence notwithstanding that any forfeiture or penalty incurred by the offence, may be payable to any public fund of such district, county or place.

Certain magistrates to have the powers of two Justices.

91. Any one Judge of Sessions of the Peace, Recorder, Police Magistrate, District Magistrate, or Stipendiary Magistrate, appointed for any District, County, City, Borough, Town, or Place and sitting at a Police Court or other place appointed in that behalf, shall have full power to do alone whatever is authorized by this Act to be done by two or more Justices of the Peace; and the several forms hereinafter contained may be varied so far as it may be necessary to render them applicable to Police Courts, or to the court or other place of sitting of such functionary as aforesaid.

Power to preserve order, &c.

92. Any Judge of the Sessions of the Peace, police magistrate, district magistrate or stipendiary magistrate, sitting at any police court or other place appointed in that behalf, shall have such and like powers and authority to preserve order in the said courts during the holding thereof, and by the like ways and means as now by law are or may be exercised and used in like cases and for the like purposes by any courts of law in Canada, or by the judges thereof respectively, during the sittings thereof.

Power to punish resistance to process, &c.

93. Any Judge of the Sessions of the Peace, police magistrate, district magistrate, or stipendiary magistrate, in all cases where any resistance is offered to the execution of any summons, warrant of execution or other process issued by him, may enforce the due execution of the same by the means provided by the law for enforcing the execution of the process of other courts in like cases.

Interpretation of certain words.

94. The expression "territorial division" whenever used in this Act, shall mean—district, county, union of counties, township, city, town, parish or other judicial division or place to which the context may apply; and the words "district or county" shall include any territorial or judicial division or place, in and for which there is such judge, justice, justice's court, officer or prison, as is mentioned in the context and to which the context may apply.

The same.

95. The words "common gaol" or "prison," whenever they occur in this Act, shall be held to mean any place other than

than a penitentiary where parties charged with offences against the law are usually kept and detained in custody.

Forms. **96.** The several forms in the schedule to this Act contained, varied to suit the case, or forms to the like effect, shall be deemed good, valid and sufficient in law.

Commencement of Act. **97.** This Act shall commence and take effect on the first day of January, in the year of our Lord, one thousand eight hundred and seventy.

SCHEDULE.

(A) *See* s. 1.

SUMMONS TO THE DEFENDANT UPON AN INFORMATION OR COMPLAINT.

Canada,
Province of ,
District (*or* County,
United Counties, *or as the case may be*,
of

To A. B., of (*laborer*):

Whereas information hath this day been laid (*or* complaint hath this day been made) before the undersigned, (one) of Her Majesty's Justices of the Peace in and for the said District (*or* County, United Counties, City, Town, &c., *as the case may be*) of , for that you (*here state shortly the matter of the information or complaint*): These are therefore to command you, in Her Majesty's name, to be and appear on , at o'clock in the forenoon, at , before me, or such Justice or Justices of the Peace for the said District, (*or* County, United Counties, *or as the case may be*,) as may then be there, to answer to the said information (*or* complaint), and to be further dealt with according to law.

Given under my hand and seal, this day of in the year of our Lord , at , in the District, (*or* County, *or as the case may be*) aforesaid.

J. S. [L. S.]

(B)

(B) *See* s. 6.

WARRANT WHEN THE SUMMONS IS DISOBEYED.

Canada,
Province of ,
District (*or* County,
United Counties, *or*
as the case may be,
of ,

To all or any of the Constables or other Peace Officers in the District (*or* County, United Counties, *or as the case may be*) of

Whereas on last past, information was laid (*or* complaint was made) before , (one) of Her Majesty's Justices of the Peace in and for the said District (*or* County, United Counties, *or as the case may be*,) of , for that A.B. (&c., *as in the summons*) : And whereas (I) the said Justice of the Peace then issued (my) summons unto the said A.B., commanding him, in Her Majesty's name, to be and appear on , at o'clock in the (*fore*) noon, at , before (me) or such Justice or Justices of the Peace as might then be there, to answer unto the said information (*or* complaint), and to be further dealt with according to law; And whereas the said A. B. hath neglected to be and appear at the time and place so appointed in and by the said Summons, although it hath now been proved to me upon oath that the said Summons hath been duly served upon the said A. B. : These are therefore to command you, in Her Majesty's name, forthwith to apprehend the said A. B. and to bring him before (me) or some one or more of Her Majesty's Justices of the Peace in and for the said District (*or* County, United Counties, *or as the case may be*,) to answer to the said information (*or* complaint); and to be further dealt with according to law.

Given under my hand and seal, this day of in the year of our Lord at , in the District (*or* County, United Counties, *or as the case may be*) aforesaid.

J. S. [L. S.]

(C) *See* s. 6.

WARRANT IN THE FIRST INSTANCE.

Canada,
Province of ,
District (*or* County,
United Counties *or*
as the case may be,)
of

To

To all or any of the Constables or other Peace Officers in the said District (*or* County, United Counties, *or as the case may be,*) of

Whereas information hath this day been laid before the undersigned, (one) of Her Majesty's Justices of the Peace in and for the said District (*or* County, United Counties, *or as the case may be,*) of for that A. B. (*here state shortly the matter of information*); and oath being now made before me substantiating the matter of such information: These are therefore to command you, in Her Majesty's name, forthwith to apprehend the said A. B. and to bring him before (me) or some one or more of Her Majesty's Justices of the Peace in and for the said District (*or* County, United Counties, *or as the case may be,*) to answer to the said information, and to be further dealt with according to law.

Given under my Hand and Seal, this day of in the year of our Lord ; at , in the District (County, &c., *as the case may be*) aforesaid.

J. S. [L. S.]

(D) *See* ss. 12, 22, 34, 46.

WARRANT OF COMMITTAL FOR SAFE CUSTODY DURING AN ADJOURNMENT OF THE HEARING.

Canada,
Province of ,
District (*or* County, United Counties, *or as the case may be*) of ,

To all or any of the Constables or Peace Officers in the District (*or* County, United Counties, *or as the case may be*) of , and to the Keeper of the Common Gaol (*or* Lock-up House) at :

Whereas on last past, information was laid (*or* complaint made) before , (one) of Her Majesty's Justices of the Peace in and for the said District (*or* County, United Counties, *or as the case may be*) of , for that (*&c., as in the Summons*); And whereas the hearing of the same is adjourned to the of (*instant,*) at o'clock in the (*fore*) noon, at , and it is necessary that the said A. B. should in the meantime be kept in safe custody: These are therefore to command you, or any one of the said Constables or Peace Officers, in Her Majesty's name, forthwith to convey the said A. B. to the Common Gaol (*or* Lock-up House,) at , and there deliver him into the custody of the Keeper thereof, together with

with this Precept; And I hereby require you, the said Keeper, to receive the said A. B. into your custody in the said Common Gaol (*or* Lock-up House) and there safely keep him until the day of , (*instant*) when you are hereby required to convey and have him, the said A. B., at the time and place to which the said hearing is so adjourned as aforesaid, before such Justices of the Peace for the said District (*or* County, United Counties, *as the case may be*) as may then be there, to answer further to the said information (*or* complaint), and to be further dealt with according to law.

Given under my hand and seal, this day of in the year of our Lord , at , in the District (*or* County, &c., *as the case may be*) aforesaid.

J. S. [L. S.]

(E) *See* ss. 12, 22, 34, 46.

RECOGNIZANCE FOR THE APPEARANCE OF THE DEFENDANT WHEN THE CASE IS ADJOURNED, OR NOT AT ONCE PROCEEDED WITH.

Canada,
Province of ,
District (*or* County,
United Counties, *or*
as the case may be,)
of ,

Be it remembered, That on , A. B. of (*laborer*,) and L. M., of , (*grocer*,) and O. P. of (*yeoman*,) personally came and appeared before the undersigned, (*one*) of Her Majesty's Justices of the Peace in and for the said District (*or* County, United Counties, *or as the case may be*) of , and severally acknowledged themselves to owe to our Sovereign Lady the Queen the several sums following, that is to say: the said A. B. the sum of , and the said L. M. and O P. the sum of , each, of good and lawful current money of Canada, to be made and levied of their several goods and chattels, lands and tenements respectively, to the use of our said Lady the Queen, Her Heirs and Successors, if he the said A. B. shall fail in the condition endorsed (*or* hereunder written).

Taken and acknowledged the day and year first above mentioned at before me.

J. S. [L. S.]

The

The condition of the within (*or* the above) written recognizance is such that if the said A. B. shall personally appear on the day of , (*instant,*) at o'clock in the (*fore*) noon, at , before me or such Justices of the Peace for the said District (*or* County, United Counties, *or as the case may be*) as may then be there, to answer further to the information (*or* complaint) of C. D. exhibited against the said A. B. and to be further dealt with according to law, then the said recognizance to be void, or else to stand in full force and virtue.

NOTICE OF SUCH RECOGNIZANCE TO BE GIVEN TO THE DEFENDANT AND HIS SURETIES.

Take notice that you, A. B., are bound in the sum of and you L. M. and O. P., in the sum of , each, that you A. B., appear personally on at o'clock in the (*fore*) noon at , before me or such Justices of the Peace for the District [*or* County, United Counties, *or as the case may be*] of as shall then be there, to answer further to a certain information [*or* complaint] of C. D. the further hearing of which was adjourned to the said time and place, and unless you appear accordingly, the recognizance entered into by you, A. B., and by L. M. and O. P. as your sureties, will forthwith be levied on you and them.

Dated this day of , one thousand eight hundred and .

J. S. [L. S.]

(F.) *See* ss 13, 23, 35, 49, 61.

CERTIFICATE OF NON-APPEARANCE TO BE ENDORSED ON THE DEFENDANT'S RECOGNIZANCE.

I hereby certify, that the said A. B. hath not appeared at the time and place in the said condition mentioned, but therein hath made default, by reason whereof the within written recognizance is forfeited.

J. S. [L. S.]

(G 1) *See* s. 16.)

SUMMONS TO A WITNESS.

Canada,
Province of ,
District (*or* County,
United Counties, *or*
as the case may be,)
of ,

To E. F. of , in the said District (*or* County, United Counties, *or as the case may be*) of

Whereas information was laid [*or* complaint was made] before (*one*) of Her Majesty's Justices of the Peace in and for the said District (*or* County, United Counties, *or as the case may be*) of , for that (&c., *as in the Summons*,) and it hath been made to appear to me upon [*oath*] that you are likely to give material evidence on behalf of the Prosecutor (*or* Complainant *or* Defendant) in this behalf; These are therefore to require you to be and appear on , at o'clock in the (*fore*) noon, at before me or such Justice or Justices of the Peace for the said District (*or* County, United Counties, *or as the case may be*) as may then be there, to testify what you shall know concerning the matter of the said information (*or* complaint.)

Given under my hand and seal, this day of in the year of our Lord , at in the District (*or* County, *or as the case may be*) aforesaid.

J. S. [L. S.]

(G 2) *See* s. 17.

WARRANT WHERE A WITNESS HAS NOT OBEYED A SUMMONS,

Canada,
Province of ,
District (*or* County,
United Counties, *or*
as the case may be,
of ,

To all or any of the Constables and other Peace officers in the said District (*or* County, United Counties, *or as the case may be*) of

Whereas information was laid (*or* complaint was made) before (*one*) of Her Majesty's Justices of the Peace, in and for

for the said District (*or* County, United Counties *or as the case may be*) of , for that (&c., *as in the Summons*) and it having been made to appear to (*me*) upon oath that E. F., of in the said District (*or* County, United Counties, *or as the case may be,*) (*laborer*), was likely to give material evidence on behalf of the (prosecutor *or as the case may be*) (*I*) did duly issue (*my*) Summons to the said E. F., requiring him to be and appear on , at o'clock in the (*fore*) noon of the same day, at before me or such Justice or Justices of the Peace for the said District (*or* County, United Counties, *or as the case may be*) as might then be there, to testify what he should know concerning the said A. B., or the matter of the said information (*or* complaint); And whereas proof hath this day been made before me, upon oath, of such Summons having been duly served upon the said E. F.; And whereas the said E. F. hath neglected to appear at the time and place appointed by the said Summons, and no just excuse has been offered for such neglect; These are therefore to command you to take the said E. F., and to bring and have him on , at o'clock in the noon, at before me or such Justice or Justices of the Peace for the District [*or* County, United Counties, *or as the case may be*] as may then be there to testify what he shall know concerning the said information (or complaint).

Given under my hand and seal, this day of in the year of our Lord , at in the District [*or* County, *or as the case may be*] aforesaid.

J. S. [L. S.]

(G 3) *See* s. 18

WARRANT FOR A WITNESS IN THE FIRST INSTANCE

Canada,
Province of ,
District (*or* County, United Counties, *or as the case may be,*) of ;

To all or any of the Constables or other Peace Officers in the said District (*or* County, United Counties, *or as the case may be*) of

Whereas information was laid [*or* complaint was made] before the undersigned (*one*) of Her Majesty's Justices of the Peace, in and for the said District (*or* County, United Counties, *or as the case may be*) of for that [&c., *as*

as in the Summons,] and it being made to appear before me upon oath, that E. F., of (*laborer*), is likely to give material evidence on behalf of the (prosecutor, *or as the case may be*), in this matter, and it is probable that the said E. F, will not attend to give evidence without being compelled so to do: These are therefore to command you to bring and have the said E. F., on , at o'clock in the (*fore*) noon, at , before me or such other Justice or Justices of the Peace, for the District (*or* County, United Counties, *or as the case may be*) as may then be there, to testify what he shall know concerning the matter of the said information (*or* complaint).

Given under (*my*) hand and seal, this day of in the year of our Lord , at , in the District [*or* County, *or as the case may be*] aforesaid.

J. S. [L. S.]

(G 4) *See* s. 19.

COMMITMENT OF A WITNESS FOR REFUSING TO BE SWORN OR GIVE EVIDENCE.

Canada,
Province of ,
District (*or* County,
United Counties, *or as the case may be*,)
of ,

To all or any of the Constables or other Peace Officers in the said District (*or* County, United Counties, *or as the case may be*,) of and to the Keeper of the Common Gaol of the said District (*or* County, United Counties, *or as the case may be*) at

Whereas information was laid (*or* complaint was made) before (*me*) (*one*) of Her Majesty's Justices of the Peace, in and for the said District (*or* County, United Counties, *or as the case may be*) of for that (*&c., as in the Summons*,) and one E. F., now appearing before me such Justice as aforesaid, on , at , and being required by me to make oath (*or* affirmation) as a witness in that behalf, hath now refused so to do, (*or* being now here duly sworn as a witness in the matter of the said information *or* complaint) doth refuse to answer a certain question concerning the premises which is now here put to him, and more particularly the following question (*here insert the exact words of the question*,) without offering any just excuse for such his refusal: These are therefore to

to command you, or any one of the said Constables or Peace officers to take the said E. F., and him safely to convey to the Common Gaol at aforesaid, and there deliver him to the said Keeper thereof, together with this precept; and I do hereby command you the said Keeper of the said Common Gaol, to receive the said E. F., into your custody in the said Common Gaol and there imprison him for such his contempt for the space of days, unless he shall in the meantime consent to be examined and to answer concerning the premises, and for so doing, this shall be your sufficient warrant.

Given under my hand and seal, this day of in the year of our Lord , at , in the District (*or* County, *or as the case may be*) aforesaid.

J. S. [L. S.]

(H) *See* s. 33.

WARRANT TO REMAND A DEFENDANT WHEN APPREHENDED.

Canada,
Province of ,
District (*or* County, United Counties, *or as the case may be*,) of ,

To all or any of the Constables, or other Peace officers in the said District (*or* County, United Counties, *or as the case may be*) of , and to the Keeper of the Common Gaol (*or* Lock-up House) at

Whereas information was laid (*or* complaint was made) before (*one*) of Her Majesty's Justices of the Peace in and for the District (*or* County, United Counties, *or as the case may be*) of , for that (*&c., as in the summons or warrant*); And whereas the said A. B. hath been apprehended under and by virtue of a warrant, upon such information (*or* complaint) and is now brought before me as such Justice as aforesaid: These are therefore to command you, or any one of the said Constables, or Peace officers, in Her Majesty's name, forthwith to convey the said A. B. to the Common Gaol (*or* Lock-up House) at , and there to deliver him to the said Keeper thereof, together with this precept; And I do hereby command you the said Keeper to receive the said A. B. into your custody in the said Common Gaol (*or* Lock-up House), and there safely keep him until next, the day of (*instant*), when you are hereby commanded to convey and have him at , at

o'clock in the noon of the same day, before me, or such Justice or Justices of the Peace of the said District (*or* County, United Counties, *or as the case may be*) as may then be there, to answer to the said information (*or* complaint,) and to be further dealt with according to law.

Given under my hand and seal, this day of , in the year of our Lord, , at , in the district (*or* County, *as the case may be*) aforesaid.

J. S. [L. S.]

(I 1) *See* ss. 42, 50.

CONVICTION FOR A PENALTY TO BE LEVIED BY DISTRESS, AND IN DEFAULT OF SUFFICIENT DISTRESS, BY IMPRISONMENT.

Canada,
Province of
District (*or* County, United Counties, *or as the case may be*,)
of ,

Be it remembered, that on the day of , in the year of our Lord, , at , in the said District (*or* County, United Counties, *or as the case may be*), A. B. is convicted before the undersigned, (*one*) of Her Majesty's Justices of the Peace for the said District (*or* County, United Counties, *or as the case may be*,) for that the said A. B., (*&c., stating the offence, and the time and place when and where committed,*) and I adjudge the said A. B. for his said offence to forfeit and pay the sum of [*stating the penalty, and also the compensation, if any,*] to be paid and applied according to law, and also to pay to the said C. D. the sum of , for his costs in this behalf; and if the said several sums be not paid forthwith (*or* on or before the of next,) * I order that the same be levied by distress and sale of the goods and chattels of the said A. B., and in default of sufficient distress, * I adjudge the said A. B., to be imprisoned in the Common Gaol of the said District [*or* County, United Counties, *or as the case may be*,] at in the said District [*or* County] of [there to be kept at hard labour *if such be the sentence*] for the space of unless the said several sums and all costs and charges of the said distress [and of the commitment and conveying of the said A. B. to the said Gaol] be sooner paid.

Given under [my] hand and seal, the day and year first above mentioned, at in the District [*or* County, United Counties, *or as the case may be*] aforesaid.

J. S [L. S.]

* *Or*

* *Or when the issuing of a Distress Warrant would be ruinous to the Defendant or his family, or it appears he has no goods whereon to levy a distress, then instead of the words between the asterisks* * * *say,* "inasmuch as it hath now been made to appear to me that the issuing of a Warrant of Distress in this behalf would be ruinous to the said A. B. or his family," [*or,* "that the said A. B. hath no goods or chattels wheron to levy the said sums by distress."] I adjudge, &c., [*as above, to the end.*]

(I 2) *See* ss. 42, 50.

CONVICTION FOR A PENALTY, AND IN DEFAULT OF PAYMENT, IMPRISONMENT.

Canada,
Province of
District (*or* County,
United Counties, *or*
as the case may be,)
of ,

Be it remembered, that on the day of , in the year of our Lord , at , in the said District (*or* County, United Counties, *or as the case may be,*) A. B., is convicted before the undersigned, (*one*) of Her Majesty's Justices of the Peace for the said District, (*or* County, United Counties, *or as the case may be,*) for that he the said A. B., (*&c., stating the offence, and the time and place when and where it was committed,*) and I adjudge the said A. B. for his said offence to forfeit and pay the sum of (*stating the penalty and the compensation, if any,*) to be paid and applied according to law; and also to pay to the said C. D. the sum of for his costs in this behalf; and if the said several sums be not paid forthwith (*or,* on or before next,) I adjudge the said A. B. to be imprisoned in the Common Gaol of the said District (*or* County, United Counties, *or as the case may be,*) at in the said District (*or* County) of (*and there to be kept at hard labour*) for the space of , unless the said sums and the costs and charges of conveying the said A. B. to the said Common Gaol, shall be sooner paid.

Given under my hand and seal, the day and year first above mentioned, at in the District (*or* County, United Counties, *or as the case may be,*) aforesaid.

J. S. [L.S.]

(I 3)

(I 3) *See* ss. 42, 50.

CONVICTION WHEN THE PUNISHMENT IS BY IMPRISONMENT, &C.

Canada,
Province of ,
District (*or* County,
United Counties, *or as the case may be,*)
of ,

Be it remembered, that on the day of , in the year of our Lord , in the said District (*or* County, United Counties, *or as the case may be,*) A. B. is convicted before the undersigned (*one*) of Her Majesty's Justices of the Peace in and for the said District (*or* County, United Counties, *or as the case may be,*) for that he the said A. B. (*&c., stating the offence and the time and place when and where it was committed*); and I adjudge the said A. B. for his said offence to be imprisoned in the Common Gaol of the said District (*or* County, United Counties, *or as the case may be,*) at in the County of (and there to be kept at hard labour) for the space of ; and I also adjudge the said A. B. to pay to the said C. D. the sum of for his costs in this behalf, and if the said sum for costs be not paid forthwith, (*or* on or before next,) then *I order that the said sum be levied by distress and sale of the goods and chattels of the said A. B.; and in default of sufficient distress in that behalf, * I adjudge the said A. B. to be imprisoned in the said Common Gaol, (and kept there at hard labour) for the space of , to commence at and from the term of his imprisonment aforesaid, unless the said sum for costs shall be sooner paid.

Given under my hand and seal, the day and year first above mentioned at in the District (*or* County, United Counties, *or as the case may be*) aforesaid.

J. S. [L.S.]

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* *Or, when the issuing of a distress warrant would be ruinous to the Defendant and his family, or it appears that he has no goods whereon to levy a distress, then, instead of the words between the asterisks* * * say, "inasmuch as it hath now been made to appear to me that the issuing of a warrant of distress in this behalf would be ruinous to the said A. B., and his family," (*or*, "that the said A. B., hath no goods or chattels whereon to levy the said sum for costs by distress)" I adjudge, &c.

(K 1) *See* ss. 42, 51.

ORDER FO RPAYMENT OF MONEY TO BE LEVIED BY DISTRESS, AND IN DEFAULT OF DISTRESS, IMPRISONMENT.

Canada,
Province of ,
District (*or* County,
United Counties, *or as the case may be*,)
of ,

Be it remembered, that on complaint was made before the undersigned, (*one*) of Her Majesty's Justices of the Peace in and for the said District (*or* County, United Counties, *or as the case may be*) of for that (*stating the facts entitling the Complainant to the order, with the time and place when and where they occurred,*) and now at this day, to wit, on , at , the parties aforesaid appear before me the said Justice, (*or*, the said C. D. appears before me the said Justice, but the said A. B. although duly called, doth appear by himself, his Counsel or Attorney, and it is now satisfactorily proved to me on oath that the said A. B. has been duly served with the Summons in this behalf, which required him to be and appear here on this day before me or such Justice or Justices of the Peace for the said District (*or* County, United Counties, *or as the case may be*) as should now be here, to answer the said complaint, and to be further dealt with according to law); and now having heard the matter of the said complaint, I do adjudge the said A. B. (to pay to the said C. D. the sum of forthwith, (*or* on or before next, *or as the Act or law may require*), and also to pay to the said C. D. the sum of for his costs in this behalf; and if the said several sums be not paid forthwith (*or* on or before next) then, * I hereby order that the same be levied by distress, and sale of the goods and chattels of the said A. B.) and in default of sufficient distress in that behalf, * I adjudge the said A. B. to be imprisoned in the Common Gaol of the said District (*or* County, United Counties, *or as the case may be*) at in the said District (*or* County) of , (and there kept to hard labour) for the space of unless the said several sums and all costs and charges of the said distress (and of the commitment and conveying of the said A. B. to the said Common Gaol) shall be sooner paid.

Given under my hand and seal, this day of in the year of our Lord , at in the District (*or* County, *or as the case may be*,) aforesaid.

J. S. [L. S.]

* *Or, when the issuing of a distress warrant would be ruinous to the Defendant or his family, or it appears he has no goods*

*goods whereon to levy a distress, then, instead of the words between the asterisks * * say,* "inasmuch as it hath now been made to appear to me that the issuing of a warrant of distress in this behalf would be ruinous to the said A. B. and his family," (*or*, "that the said A. B. hath no goods or chattels whereon to levy the said sums by distress)."

(K 2) *See* ss. 42, 51.

ORDER FOR PAYMENT OF MONEY, AND IN DEFAULT OF PAYMENT, IMPRISONMENT.

Canada,
Province of ,
District (*or* County,
United Counties, *or as the case may be*)
of ,

Be it remembered, that on complaint was made before the undersigned, (*one*) of Her Majesty's Justices of the Peace in and for the said District (*or* County, United Counties, *or as the case may be*,) of , for that (*stating the facts entitling the complainant to the order, with the time and place when and where they occurred*,) and now on this day, to wit, on , at , the parties aforesaid appear before me the said Justice, (*or* the said C. D. appears before me the said Justice, but the said A. B. although duly called doth not appear by himself, his Counsel or Attorney, and it is now satisfactorily proved to me upon oath that the said A. B. has been duly served with the Summons in this behalf, which required him to be and appear here this day before me, or such Justice or Justices of the Peace for the said District (*or* County, United Counties, *or as the case may be*,) as should now be here, to answer to the said complaint, and to be further dealt with according to law,) and now having heard the matter of the said complaint, I do adjudge the said A. B. to pay to the said C. D. the sum of forthwith, (*or* on or before next, *or as the Act or law may require*,) and also to pay to the said C. D. the sum of for his costs in this behalf; and if the said several sums be not paid forthwith, (*or* on or before next), then I adjudge the said A. B. to be imprisoned in the Common Gaol of the said District (*or* County, United Counties, *or as the case may be*,) at , in the said District (*or* County) of (there to be kept at hard labour *if the Act or law authorize this*) for the space of , unless the said several sums (and costs and charges of commitment

mitment and conveying the said A. B. to the said Common Gaol) shall be sooner paid.

Given under (*my*) hand and seal, this day of , in the year of our Lord , at , in the District (*or* County, United Counties, *or as the case may be*) aforesaid.

J. S. [L. S.]

(K 3) *See* ss. 42, 51.

ORDER FOR ANY OTHER MATTER WHERE THE DISOBEYING OF IT IS PUNISHABLE WITH IMPRISONMENT.

Canada,
Province of ,
District [*or* County,
United Counties, *or as the case may be*],
of ,

Be it remembered, that on complaint was made before the undersigned, [*one*] of Her Majesty's Justices of the Peace in and for the said District [*or* County, United Counties, *or as the case may be*,] of , for that [*stating the facts entitling the complainant to the order, with the time and place where and when they occurred*,] and now on this day, to wit, on , at , the parties aforesaid appear before me the said justice [*or* the said C. D. appears before me the said Justice but the said A. B. although duly called doth not appear by himself, his Counsel or Attorney, and it is now satisfactorily proved to me upon oath that the said A. B. has been duly served with the Summons in this behalf, which required him to be and appear here this day before me, or such Justice or Justices of the Peace for the said District [*or* County, United Counties, *or as the case may be*,] as should now be here, to answer to the said complaint, and to be further dealt with according to law,] and now having heard the matter of the said complaint, I do therefore adjudge the said A. B. to [*here state the matter required to be done*], and if upon a copy of the Minute of this Order being served upon the said A. B. either personally or by leaving the same for him at his last or most usual place of abode, he shall neglect or refuse to obey the same, in that case I adjudge the said A. B. for such his disobedience to be imprisoned in the Common Gaol of the said District [*or* County, United Counties, *or as the case may be*,] at , in the said County of [there to be kept at hard labour *if the Statute authorize this*], for the space of unless the said order be sooner obeyed, and I do also adjudge

judge the said A. B. to pay to the said C. D. the sum of for his costs in this behalf, and if the said sum for costs be not paid forthwith, [*or* on or before next,] I order the same to be levied by distress and sale of the goods and chattels of the said A. B., and in default of sufficient distress in that behalf, I adjudge the said A. B. to be imprisoned in the said Common Gaol [there to be kept at hard labour] for the space of to commence at and from the termination of his imprisonment aforesaid, unless the said sum for costs shall be sooner paid.

Given under [*my*] hand and seal, this day of , in the year of our Lord , at , in the District [*or* County, United Counties, *or as the case may be*] aforesaid.

J. S. [L. S.

[L] *See* s. 43.

ORDER OF DISMISSAL OF AN INFORMATION OR COMPLAINT.

Canada,
Province of ,
District [*or* County,
United Counties, *or as the case may be*]
of ,

Be it remembered, that on information was laid [*or* complaint was made] before the undersigned, [*one*] of Her Majesty's Justices of the Peace in and for the said District [*or* County, United Counties, *or as the case may be*] of , for that [*&c., as in the Summons to the Defendant,*] and now at this day, to wit, on , at , both the said parties appear before me in order that I should hear and determine the said information [*or* complaint] [*or* the said A. B. appeareth before me, but the said C. D. although duly called doth not appear,*] whereupon the matter of the said information [*or* complaint] being by me duly considered [it manifestly appears to me that the said information [*or* complaint] is not proved,] I do therefore dismiss the same, and do adjudge that the said C. D. do pay to the said A. B. the sum of for his costs incurred by him in his defence in this behalf: and if the said sum for costs be not paid forthwith, [*or* on or before ,] I order that the same be levied by distress and sale of the goods and chattels of the said C. D., and in default of sufficient distress in that behalf, I adjudge the said C. D. to be imprisoned in the Common Gaol of the said District [*or* County, United Counties, *or as the case may be*] at in the said County of [and there be kept at hard labour] for the space of , unless the said sum for costs and all costs and charges of

of the said distress [and of the commitment of the said C. D. to the said Common Gaol,] shall be sooner paid.

Given under my hand and seal, this day of in the year of our Lord , at , in the District [*or* County, United Counties, *or as the case may be*] aforesaid.

J. S. [L. S.]

**If the Informant* [or *Complainant*] *do not appear, these words may be omitted.*

[M] *See* s. 43.

CERTIFICATE OF DISMISSAL.

I hereby certify that an information [*or* complaint,] preferred by C. D. against A.B. for that [*or as in the summons,*] was this day considered by me, one of Her Majesty's Justices of the Peace in and for the District [*or* County, United Counties, *or as the case may be*] of , and was by [me] dismissed [*with costs.*]

Dated this day of , one thousand eight hundred and

J. S. [L. S.]

[N 1] *See* s. 57.

WARRANT OF DISTRESS UPON A CONVICTION FOR A PENALTY.

Canada,
Province of ,
District [*or* County, United Counties, *or as the case may be*] of ,

To all or any of the Constables, or other Peace Officers in the said District [or County, United Counties, *or as the case may be*] of

Whereas A. B., late of , *(laborer)* was on this day *(or* on last past) duly convicted before *(one)* of Her Majesty's Justices of the Peace, in and for the said District *(or* County, United Counties, *or as the case may be)* of for that *(stating the offence as in the conviction)* and it was thereby adjudged that the said A. B., should for such his offence forfeit and pay, *(&c., as in the conviction)*, and should also pay to the said C. D., the sum of for his costs in that behalf; and it was thereby ordered that if the said several sums should not be paid [*forthwith*]

[*forthwith*] the same should be levied by distress and sale of the goods and chattels of the said A.B., and it was thereby also adjudged that the said A. B., in default of sufficient distress should be imprisoned in the Common Gaol of the said District (*or* County, United Counties, *or as the case may be*) at in the said County of (*and there to be kept at hard labor*) for the space of unless the said several sums and all costs and charges of the said distress, and of the commitment and conveying of the said A. B., to the said Common Gaol should be sooner paid ; *And whereas the said A. B., being so convicted as aforesaid, and being [*now*] required to pay the said sums of and hath not paid the same or any part thereof, but therein hath made defaults ; These are therefore to command you, in Her Majesty's name, forthwith to make distress of the goods and chattels of the said A. B. ; and if within days next after the making of such distress, the said sums, together with the reasonable charges of taking and keeping the distress, shall not be paid, then you do sell the said goods and chattels so by you distrained, and do pay the money arising from such sale unto me (*the convicting Justice* or *one of the convicting Justices*) that I may pay and apply the same as by law is directed, and may render the overplus, if any, on demand, to the said A. B. ; and if no such distress can be found, then, that you certify the same unto me, to the end that such further proceedings may be had thereon as to law doth appertain.

Given under my hand and seal, this day of in the year of our Lord , at in the District (*or* County, *or as the case may be*) aforesaid.

J. S. [L. S.]

(N 2) *See* s. 57.

WARRANT OF DISTRESS UPON AN ORDER FOR THE PAYMENT OF MONEY.

Canada,
Province of ,
District (*or* County,
United Counties, *or as the case may be*,)
of ,

To all or any of the Constables, or other Peace Officers, in the said District (*or* County, United Counties, *or as the case may be*) of

Whereas

Whereas on last past, a complaint was made before (*one*) of Her Majesty's Justices of the Peace in and for the said District (*or* County, United Counties, *or as the case may be*) for that (*&c., as in the order,*) and afterwards, to wit, on , at , the said parties appeared before (*as in the order,*) and thereupon the matter of the said complaint having been considered, the said A. B. was adjudged (to pay to the said C. D. the sum of on or before then next,) and also to pay to the said C. D. the sum of for his costs in that behalf; and it was ordered that if the said several sums should not be paid on or before the said then next, the same should be levied by distress and sale of the goods and chattels of the said A. B.; and it was adjudged that in default of sufficient distress in that behalf, the said A. B., should be imprisoned in the Common Gaol of the said District (*or* County, United Counties, *or as the case may be*) at , in the said County of (and there kept at hard labour) for the space of , unless the said several sums and all costs and charges of the distress (and of the commitment and conveying of the said A. B. to the said Common Gaol) should be sooner paid; * And whereas the time in and by the said order appointed for the payment of the said several sums of and hath elapsed, but the said A.B. hath not paid the same, or any part thereof, but herein hath made default; These are therefore to command you, in Her Majesty's name, forthwith to make distress of the goods and chattels of the said A. B.; and if within the space of days after the making of such distress, the said last mentioned sums, together with the reasonable charges of taking and keeping the said distress, shall not be paid, that then you do sell the said goods and chattels so by you distrained, and do pay the money arising from such sale unto me, (*or some other of the convicting Justices, as the case may be*) that I (*or* he) may pay and apply the same as by law directed, and may render the overplus, if any, on demand to the said A. B.; and if no such distress can be found, then that you certify the same unto me, to the end that such proceedings may be had therein, as to law doth appertain.

Given under my hand and seal, this day of in the year of our Lord , at , in the District (*or* County, *or as the case may be*) aforesaid.

J. S. [L. S.]

(N 3) *See* s. 58.

ENDORSEMENT IN BACKING A WARRANT OF DISTRESS.

Canada, ,
Province of
District [*or* County,
United Counties, *or*
as the case may be]
of ,

Whereas proof upon oath hath this day been made before me, one of Her Majesty's Justices of the Peace in and for the said District [*or* County, United Counties, *or as the case may be*] that the name of J. S. to the within warrant subscribed, is of the handwriting of the Justice of the Peace within mentioned, I do therefore authorize U. T. who bringeth me this warrant, and all other persons to whom this warrant was originally directed, or by whom the same may be lawfully executed, and also all Constables and other Peace Officers in the said District [*or* County, United Counties, *or as the case may be*,] of to execute the same within the said District [*or* County, United Counties, *or as the case may be*]

Given under my hand, this day of , one thousand eight hundred and

O. K.

[N 4] *See* s. 62.

CONSTABLE'S RETURN TO A WARRANT OF DISTRESS.

I, W. T., Constable of , in the District [*or* County, United Counties, *or as the case may be*] of , hereby certify to J. S., Esquire, one of Her Majesty's Justices of the Peace for the District [*or* County, United Counties, *or as the case may be*] of that by virtue of this warrant I have made diligent search for the goods and chattels of the within mentioned A. B., and that I can find no sufficient goods or chattels of the said A. B. whereon to levy the sums within mentioned.

Witness my hand, this day of , one thousand eight hundred and

W. T.

[N 5]

[N 5] *See* s. 62.

WARRANT OF COMMITMENT FOR WANT OF DISTRESS.

Canada,
Province of ,
District [*or* County,
United Counties, *or*
as the case may be,]
of ,

To all or any of the Constables and other Peace Officers in the District, [*or* County, United Counties, *or as the case may be*,] of , and to the keeper of the Common Gaol of the said District [*or* County, United Counties, *or as the case may be*,] of , at , in the said District [*or* County] of :

Whereas [*&c., as in either of the foregoing distress warrants, N* 1, 2, *to the asterisks,* * *and then thus*]: And whereas afterwards on the day of , in the year aforesaid, I, the said Justice, issued a warrant to all or any of the Constables or other Peace Officers of the District [*or* County, United Counties, *or as the case may be*,] of commanding them, or any of them, to levy the said sums of and by distress and sale of the goods and chattels of the said A. B.; And whereas it appears to me, as well by the return to the said warrant of distress, by the Constable who had the execution of the same, as otherwise, that the said Constable hath made diligent search for the goods and chattels of the said A. B.; but that no sufficient distress whereon to levy the sums above mentioned could be found; These are therefore to command you, the said Constables or Peace Officers, or any one of you, to take the said A. B., and him safely to convey to the Common Gaol at aforesaid, and there deliver him to the said Keeper, together with this precept; and I do hereby command you, the said Keeper of the said Common Gaol, to receive the said A. B. into your custody, in the said Common Gaol, there to imprison him (and keep him at hard labour) for the space of , unless the said several sums, and all the costs and charges of the said distress, (and of the commitment and conveying of the said A. B. to the said Common Gaol) amounting to the further sum of , shall be sooner paid unto you the said Keeper; and for so doing, this shall be your sufficient warrant.

Given under my hand and seal, this day of , in the year of our Lord , at in the District (*or* County, *or as the case may be*) aforesaid.

J. S. [L. S.]

(O 1)

(O 1) *See* s. 59.

WARRANT OF COMMITMENT UPON A CONVICTION FOR A PENALTY IN THE FIRST INSTANCE.

Canada,
Province of ,
District, [*or* County,
United Counties, *or*
as the case may be,]
of ,

To all or any of the Constables and other Peace Officers in the said District [*or* County, United Counties, *or as the case may be*,] of , and to the Keeper of the Common Gaol of the said District [*or* County, United Counties, *or as the case may be*,] of : , at in the said District [*or* County] of :

Whereas A. B. late of (*labourer*,) was on this day convicted before the undersigned, (*one*) of Her Majesty's Justices of the Peace, in and for the said District (*or* County, United Counties, *or as the case may be*) for that (*stating the offence as in the conviction*,) and it was thereby adjudged that the said A. B, for his offence should forfeit and pay the sum of (*&c., as in the conviction*,) and should pay to the said C. D. the sum of for his costs in that behalf; and it was thereby further adjudged that if the said several sums should not be paid (*forthwith*) the said A. B. should be imprisoned in the Common Gaol of the said District [*or* County, United Counties, *or as the case may be*] at in the said District [*or* County] of (and there kept at hard labour) for the space of , unless the said several sums [and the costs and charges of conveying the said A. B. to the said Common Gaol] should be sooner paid; And whereas the time in and by the said conviction appointed for the payment of the said several sums hath elapsed, but the said A. B. hath not paid the same or any part thereof, but therein hath made default; These are therefore to command you, the said Constables or Peace Officers, or any one of you, to take the said A. B., and him safely to convey to the Common Gaol at aforesaid, and there to deliver him to the said Keeper thereof, together with this Precept; and I do hereby command you, the said Keeper of the said Common Gaol, to receive the said A. B. into your custody in the said Common Gaol, there to imprison him [and keep him at hard labour] for the space of , unless the said several sums [and costs and charges of carrying him to the said Common Gaol, amounting to the further sum of], shall be sooner paid unto you, the said Keeper; and for your so doing, this shall be your sufficient warrant.

Given

Given under [*my*] hand and seal, this day of in the year of our Lord , at , in the District [*or* County, *or as the case may be*] aforesaid.

J. S. [L. S.]

[O 2] *See* s. 59.

WARRANT OF COMMITMENT ON AN ORDER IN THE FIRST INSTANCE.

Canada,
Province of ,
District [*or* County, United Counties *or as the case may be*] of .

To all or any of the Constables and other Peace Officers in the said District, [*or* County, United Counties, *or as the case may be*] of , and to the Keeper of the Common Gaol of the District [*or* County, United Counties, *or as the case may be*] of at in the said District [*or* County] of

Whereas on last past, complaint was made before the undersigned, [*one*] of Her Majesty's Justices of the Peace in and for the said District [*or* County, United Counties, *or as the case may be*] of for that [*&c., as in the order*], and afterwards, to wit, on the day of , at the parties appeared before me, the said Justice [*or as it may be in the order*], and thereupon having considered the matter of the complaint, I adjudged the said A. B. to pay the said C. D. the sum of , on or before the day of then next, and also to pay to the said C. D. the sum of for his costs in that behalf; and I also thereby adjudged that if the said several sums should not be paid on or before the day of then next, the said A. B. should be imprisoned in the Common Gaol of the District [*or* County, United Counties, *or as the case may be*] of at in the said County of [and there to be kept at hard labour] for the space of unless the said several sums [and the costs and charges of conveying, the said A. B. to the said Common Gaol, *as the case may be*] should be sooner paid; And whereas the time in and by the said order appointed for the payment of the said several sums of money hath elapsed, but the said A. B. hath not paid the same or any part thereof, but therein hath made default; These are therefore to command you, the said Constables and Peace Officers, or any of you,

you, to take the said A. B. and him safely to convey to the said Common Gaol, at aforesaid, and there to deliver him to the Keeper thereof, together with this precept; and I do hereby command you, the said Keeper of the said Common Gaol to receive the said A. B. into your custody in the said Common Gaol, there to imprison him [*and keep him at hard labour*] for the space of , unless the said several sums [and the costs and charges of conveying him to the said Common Gaol, amounting to the further sum of],shall be sooner paid unto you the said Keeper; and for your so doing, this shall be your sufficient Warrant.

Given under my hand and seal, this day of in the year of our Lord at , in the District [*or* County, *or as the case may be*] aforesaid.

J. S. [L. S.]

[Q 1] *See* s. 64.

WARRANT OF DISTRESS FOR COSTS UPON AN ORDER FOR DISMISSAL OF AN INFORMATION OR COMPLAINT.

Canada,
Province of ,
District (*or* County,
United Counties *or*
as the case may be)
of ,

To all or any of the Constables or other Peace Officers, in the said District (*or* County, United Counties, *or as the case may be*,) of

Whereas on last past, information was laid (*or* complaint was made) before (*one*) of Her Majesty's Justices of the Peace in and for the said District (*or* County, United Counties, *or as the case may be*) of for that (*&c., as in the order of dismissal*) and afterwards, to wit, on at , both parties appearing before in order that (*I*) should hear and determine the same, and the several proofs adduced to (*me*) in that behalf being by (*me*) duly heard and considered, and it manifestly appearing to (*me*) that the said information (*or* complaint) was not proved, (*I*) therefore dismissed the same and adjudged that the said C. D. should pay to the said A. B. the sum of for his costs incurred by him in his defence in that behalf; and [*I*] ordered that if the said sum for costs should not be paid [*forthwith*] the same should be levied on the goods and chattels of the said C. D., and [*I*] adjudged that in default of sufficient

sufficient distress in that behalf the said C. D. should be imprisoned in the Common Gaol of the said District [*or* County, United Counties, *or as the case may be*] of , at in the said District or County of [and there kept at hard labour] for the space of , unless the said sum for costs, and all costs and charges of the said distress, and of the commitment and conveying of the said A. B. to the said Common Gaol should be sooner paid; * And whereas the said C. D. being now required to pay to the said A. B. the said sum for costs, hath not paid the same, or any part thereof, but therein hath made default: These are therefore to command you, in Her Majesty's name, forthwith to make distress of the goods and chattels of the said C. D., and if within the space of days next after the making of such distress, the said last mentioned sum, together with the reasonable charges of taking and keeping the said distress, shall not be paid, then that you do sell the said goods and chattels so by you distrained, and do pay the money arising from such sale to me [*the Justice who made such order or dismissal as the case may be*] that [*I*] may pay and apply the same as by law directed, and may render the overplus [if any] on demand to the said C. D., and if no such distress can be found, then that you certify the same unto me, [*or* to any other Justice of the Peace for the same District [*or* County, United Counties, *or as the case may be*] to the end that such proceedings may be had therein as to law doth appertain.

Given under [*my*] hand and seal, this day of , in the year of our Lord , at in the District [*or* County, *or as the case may be*] aforesaid.

J. S. [L. S.]

[Q 2] *See* s. 64.

WARRANT OF COMMITMENT FOR WANT OF DISTRESS IN THE LAST CASE.

Canada,
Province of ,
District [*or* County, United Counties, *or as the case may be*] of ,

To all or any of the Constables or Peace Officers in the said District [*or* County, United Counties, *or as the case may be*] of , and to the Keeper of the Common Gaol of the said District [*or* County, United Counties, *or as the case may be*] of at in the said District [*or* County] of .

Whereas

Whereas [*&c., as in the last form, to the asterisk, * and then thus :*] And whereas afterwards, on the day of , in the year aforesaid, I, the said Justice, issued a warrant to all or any of the Constables or other Peace Officers of the said District [*or* County, United Counties, *or as the case may be*] commanding them, or any one of them to levy the said sum of for costs, by distress and sale of the goods and chattels of the said C. D.; And whereas it appears to me, as well by the return to the said warrant of distress of the Constable [*or* Peace Officer] charged with the execution of the same, as otherwise, that the said Constable hath made diligent search for the goods and chattels of the said C, D., but that no sufficient distress whereon to levy the sum above mentioned could be found; These are therefore to command you, the said Constables and Peace Officers, or any one of you, to take the said C. D. and him safely convey to the Common Gaol of the said District [*or* County, United Counties, *or as the case may be*,] at aforesaid, and there deliver him to the Keeper thereof, together with this Precept; and I hereby command you, the said Keeper of the said Common Gaol, to receive the said C. D. into your custody in the said Common Gaol, there to imprison him [and keep him at hard labour] for the space of unless the said sum, and all the costs and charges of the said distress [and of the commitment and conveying of the said C. D. to the said Common Gaol amounting to the further sum of ,] shall be sooner paid up unto you the said Keeper; and for your so doing, this shall be your sufficient warrant.

Given under my hand and seal, this day of , in the year of our Lord , at , in the District (*or* County, *or as the case may be*) aforesaid.

J. S. [L. S.]

(R) *See* s. 75.

CERTIFICATE OF CLERK OF THE PEACE THAT THE COSTS OF AN APPEAL ARE NOT PAID.

Office of the Clerk of the Peace for the District (*or* County, United Counties, *or as the case may be*) of

TITLE OF THE APPEAL.

I hereby certify, that at a Court of General *or* Quarter Sessions of the Peace, (*or other Court discharging the functions of the Court of General or Quarter Sessions, as the case may be*) holden at , in and for the said District (*or* County, United Counties, *or as the case may be*) on last

last past, an appeal by A. B. against a conviction (*or* order) of J. S., Esquire, one of Her Majesty's Justices of the Peace in and for the said District (*or* County, United Counties, *or as the case may be*) came on to be tried, and was there heard and determined, and the said Court of General *or* Quarter Sessions (*or other Court, as the case may be*), thereupon ordered that the said conviction (*or* order) should be confirmed [*or* quashed] and that the said [*Appellant*] should pay to the said [*Respondent*] the sum of for his costs incurred by him in the said appeal, and which sum was thereby ordered to be paid to the Clerk of the Peace for the said District [*or* County, United Counties, *or as the case may be*] on or before the day of instant, to be by him handed over to the said [*Respondent*], and I further certify that the said sum for costs has not, nor has any part thereof, been paid in obedience to the said order.

Dated this day of , one thousand eight hundred and

G. H.,
Clerk of the Peace.

[S 1] *See* s. 75.

WARRANT OF DISTRESS FOR COSTS OF AN APPEAL AGAINST A CONVICTION OR ORDER.

Canada,
Province of ,
District [*or* County, United Counties, *or as the case may be*,] of .

To all or any of the Constables or other Peace Officers in the said District [*or* County, United Counties, *or as the case may be*] of

Whereas [*&c., as in the warrants of distress, N* 1, 2, *ante, and to the end of the Statement of the Conviction or Order, and then thus*]: And whereas the said A. B., appealed to the Court of General Quarter Sessions of the Peace [*or other Court discharging the functions of the Court of General or Quarter Sessions, as the case may be*], for the said District [*or* County, United Counties, *or as the case may be*] against the said Conviction or Order, in which appeal the said A. B. was the Appellant, and the said C. D., [*or* J. S. Esquire, the Justice of the Peace who made the said Conviction *or* Order] was

was the Respondent, and which said appeal came on to be tried and was heard and determined at the last General Quarter Sessions of the Peace [*or other Court, as the case may be*] for the said District [*or* County, United Counties, *or as the case may be*] holden at , on ; and the said Court thereupon ordered that the said Conviction [*or* Order] should be confirmed [*or* quashed] and that the said [*Appellant*] should pay to the said [*Respondent*] the sum of for his costs incurred by him in the said appeal, which said sum was to be paid to the Clerk of the Peace for the said District [*or* County, United Counties, *or as the case may be*] on or before the day of , one thousand eight hundred and to be by him handed over to the said C. D.; and whereas the Clerk of the Peace of the said District [*or* County, United Counties, *or as the case may be*] hath, on the day of instant, duly certified that the said sum for costs had not been paid; * These are therefore to command you, in Her Majesty's name, forthwith to make distress of the goods and chattels of the said A. B., and if within the space of days next after the making of such distress, the said last mentioned sum, together with the reasonable charges of taking and keeping the said distress, shall not be paid, that then you do sell the said goods and chattels so by you distrained, and do pay the money arising from such sale to the Clerk of the Peace for the said District [*or* County, United Counties, *or as the case may be*] of , that he may pay and apply the same as by law directed; and if no such distress can be found, then that you certify the same unto me or any other Justice of the Peace for the same District [*or* County, United Counties, *or as the case may be*] to the end that such proceedings may be had therein, as to law doth appertain.

Given under my hand and seal, this day of , in the year of our Lord , at , in the District (*or* County *or as the case may be*) aforesaid.

O. K. [L. S.]

(S 2.) *See* S. 75

WARRANT OF COMMITMENT FOR WANT OF DISTRESS IN THE LAST CASE

Canada, }
Province of , }
District (*or* County, United Counties, *or as the case may be*) of }

To

To all or any of the Constables, or other Peace Officers, in the said District (*or* County, United Counties, *or as the case may be*) of and to the Keeper of the Common gaol of the said District (*or* County, United Counties, *or as the case may be*) of , at , in the said County of

Whereas (*&c., as in the last form to the asterisk,* and then thus*): And whereas, afterwards, on the day of in the year aforesaid, I, the undersigned, issued a warrant to all or any of the Constables and other Peace Officers in the said District (*or* County, United Counties, *or as the case may be*,) of , commanding them, or any of them, to levy the said sum of , for costs, by distress and sale of the goods and chattels of the said A. B.; And whereas it appears to me, as well by the return to the said Warrant of Distress of the Constable (*or* Peace Officer), who was charged with the execution of the same, as otherwise, that the said Constable hath made diligent search for the goods and chattels of the said A. B., but that no sufficient distress whereon to levy the said sum above mentioned could be found; These are therefore to command you, the said Constables or Peace Officers, or any one of you, to take the said A. B., and him safely to convey to the Common Gaol of the said District (*or* County, United Counties *or as the case may be*,) of at aforesaid, and there deliver him to the said Keeper thereof, together with this Precept; and I do hereby command you, the said Keeper of the said Common Gaol, to receive the said A. B. into your custody in the said Common Gaol, there to imprison him (*and keep him at hard labour*) for the space of ,) unless the same sum and all costs and charges of the said distress (and for the commitment and conveying of the said A. B. to the said Common Gaol, amounting to the further sum of ,) shall be sooner paid unto you, the said Keeper, and for so doing, this shall be your sufficient Warrant.

Given under my hand and seal, this day of , in the year of our Lord , at , in the District (*County, United Counties, or as the case may be*) aforesaid.

J. N. [L. S.]

T.

GENERAL FORM OF INFORMATION OR OF COMPLAINT ON OATH.

Canada,
Province of ,
District (*or* County, United Counties *or as the case may be*) of

The

The information [*or* complaint] of C. D., of the township of in the said District (or County, United Counties, *or as the case may be*,) of (*laborer*). (*If preferred by an Attorney or Agent say:* D. E. by his duly authorized Agent [*or Attorney*], in this behalf,) taken upon oath, before me, the undersigned, one of Her Majesty's Justices of the Peace, in and for the said District (*or* County, United Counties, *or as the case may be*) of , at N., in the said District,) County, *or as the case may be*) of this day of , in the year of our Lord, one thousand eight hundred and , who saith* that [he hath just cause to suspect and believe, and doth suspect and believe that] A. B., of the [*township*] of , in the said District (*or* County, *as the case may be*) of , within the space of , (*the time within which the information or complaint must be laid*,) last past, to wit, on the day of instant, at the (*township*) of in the District [*County or as the case may be*] aforesaid, did [*here set out the offence, &c.*,] contrary to the form of Statute in such case made and provided.

C. D. [*or* D. E.]

Taken and sworn before me, the day and year and at the place above mentioned.

J. S.

FORM OF ORDER OF DISMISSAL OF AN INFORMATION OR COMPLAINT.

Canada,
Province of ,
District [*or* County, United Counties, *or as the case may be*] of .

Be it remembered, that on , information was laid [*or* complaint was made] before the undersigned, [*one*] of Her Majesty's Justices of the Peace in and for the said District [*or* County, United Counties, *or as the case may be*] of , for that [*&c., as in the Summons of the Defendant*] and now at this day, to wit, on , at , [*if at any adjournment insert here:* "To which day the hearing of this case hath been duly adjourned, of which the said C. D. had due notice,"] both the said parties appear before me in order that I should hear and determine the said information, [*or* complaint] [or the said A. B, appeareth before me, but the said C. D., although duly called, doth not appear]; whereupon the matter of the said information [*or* complaint] being by me duly considered, it manifestly appears to me that the said information [*or* complaint] is not proved, and [*If the Informant*

formant [*or Complainant*] *do not appear these words may be omitted*] I do therefore dismiss the same, [and do adjudge that the said C. D. do pay to the said A. B. the sum of for his costs incurred by him in defence in his behalf; and if the said sum for costs be not paid forthwith, [*or* on or before], I order that the same be levied by distress and sale of the goods and chattels of the said C. D. and in default of sufficient distress in that behalf, I adjudge the said C. D. to be imprisoned in the Common Gaol of the said District [or County, United Counties, *as the case may be*] of at in the said [*County*] of [*and there kept at hard labor*] for the space of , unless the said sum for costs, and all costs and charges of the said distress [and of the commitment and conveying of the said C. D. to the said Common Gaol] shall be sooner paid.

Given under my hand and seal, this day of in the year of our Lord, at in the District [*or* County, *or as the case may be*] aforesaid.

J. S. [L. S.]

FORM OF CERTIFICATE OF DISMISSAL.

I hereby certify, that an information [*or* complaint] preferred by C. D. against A. B. for that [*&c., as in the Summons*] was this day considered by me, one of Her Majesty's Justices of the Peace in and for the said District [*or* County, United Counties, *or as the case may be*] of , and was by me dismissed (with costs),

Dated this day of , one thousand

J. S.

GENERAL FORM OF NOTICE OF APPEAL AGAINST A CONVICTION OR ORDER.

To C. D. of, &c., and (*the names and additions of the parties to whom the notice of appeal is required to be given.*)

Take notice, that I, the undersigned A. B., of (&c.,) do intend to enter and prosecute an appeal at the next General Quarter Sessions of the Peace,(*or in any other Court discharging the functions of the Court of General or Quarter Sessions, as the case may be,*) to be holden at , in and for the District (*or* County, United Counties, *or as the case may be,*) of , against a certain conviction (*or* order) bearing date on or about the day of instant, and made by (you) C. D., Esquire, (*one*) of Her Majesty's Justices of the Peace for the said

said District (*or* County, United Counties, *or as the case may be,*) of , whereby the said A. B., was convicted of having [*or* was ordered] , [*here state the offence as in the conviction, order, information or summons, as correctly as possible:*] And further, take notice that the grounds of my appeal are, first, that [I am not guilty of the said offence; secondly, that the formal conviction drawn up and returned to the Sessions is not in law sufficient to support the said conviction of me, the said A. B.,] [*together with any other grounds, care being taken that all are stated, as the appellant will be precluded from going into any other than those stated.*]

Dated this day of , one thousand eight hundred and

A. B.

MEM.—*If this notice be given by several Defendants, or by an Attorney, it can easily be adapted to the special case.*

FORM OF RECOGNIZANCE TO TRY THE APPEAL, &c.

Be it remembered, that on , A. B, of [*labourer,*] and L. M., of [*grocer*] and N. O., of [*yeoman,*] personally came before the undersigned, [*one*] of Her Majesty's Justices of the Peace in and for the said District [*or* County, United Counties, *or as the case may be,*] of , and severally acknowledged themselves to owe to our Sovereign Lady the Queen, the several sums following, that is to say, the said A. B. the sum of , and the said L. M. and N. O. the sum of , each, of good and lawful money of Canada, to be made and levied of their several goods and chattels, lands and tenements respectively, to the use of our said Lady the Queen, Her Heirs and Successors, if he the said A. B. shall fail in the condition endorsed.

Taken and acknowledged the day and year first above mentioned at , before me.

J. S.

The condition of the within written Recognizance is such, that if the said A. B. shall, at the (*next*) General *or* Quarter Sessions of the Peace, (*or other Court discharging the functions of the Court of General or Quarter Sessions, as the case may be*) to be holden at , on the , day of next, in and for the said District (*or* County, United Counties, *or as the case may be,*) of , enter and prosecute an appeal against a certain conviction bearing date the day of instant, and made by (me) the said Justice, whereby he the said A. B. was convicted, for that he the said A. B. did on the day of , at the township of , in the said District (*or* County, United Counties, *or as the case may be,*) of , (*here set out the offence as*

as stated in the conviction ;) And further, that if the said A. B. shall abide by and duly perform the order of the court to be made upon the trial of such appeal, then the said Recognizance to be void, or else to remain in full force and virtue.

FORM OF NOTICE OF SUCH RECOGNIZANCE TO BE GIVEN TO THE DEFENDANT [APPELLANT] AND HIS SURETIES.

Take notice, that you, A. B., are bound in the sum of , and you, L. M. and N. O. in the sum of each, that you the said A. B. at the next General or Quarter Sessions of the Peace to be holden at , in and for the said District, (*or* County, United Counties, *or as the case may be*) of , enter and prosecute an Appeal against a Conviction (*or* order) dated the day of (*instant,*) whereby you, A. B. were convicted of [*or* ordered, &c.,] [*stating offence or the subject of the order shortly*], and abide by and perform the order of the court to be made upon the trial of such appeal ; and unless you the said A. B. prosecute such appeal accordingly, the Recognizance entered into by you will forthwith be levied on you, and each of you.

Dated this day of one thousand eight hundred and

SURETIES.

COMPLAINT BY THE PARTY THREATENED, FOR SURETIES FOR THE PEACE.

Proceed as in the Form [T] *to the asterisk *, then :* that A. B. of the [*Township*] of , in the District [County, *or as the case may be,*] of , did, on the day of [instant *or* last past, *as the case may be*], threaten the said C. D. in the words or to the effect following, that is to say, [*set them out, with the circumstances under which they were used :*] and that from the above and other threats used by the said A. B. towards the said C. D., he the said C. D. is afraid that the said A. B. will do him some bodily injury, and therefore prays that the said A. B. may be required to find sufficient Sureties to keep the peace and be of good behaviour towards him the said C. D.; and the said C. D. also saith that he doth not make this complaint against nor require such Sureties from the said A. B. from any malice or ill-will, but merely for the preservation of his person from injury.

FORM

FORM OF RECOGNIZANCE FOR THE SESSIONS.

Be it remembered, that on the day of , in the year of our Lord , A. B. of [*labourer*], L. M. of [*grocer*], and N. O. of [*butcher*], personally came before [*us*] the undersigned, [*two*] of Her Majesty's Justices of the Peace for the said District [*or* County, United Counties, *or as the case may be*,] of and severally acknowledged themselves to owe to our Lady the Queen the several sums following, that is to say: the said A. B. the sum of , and the said L. M. and N. O. the sum of , each, of good and lawful money of Canada, to be made and levied of their goods and chattels, lands and tenements respectively, to the use of our said Lady the Queen, Her Heirs and Successors, if he the said A. B. fail in the condition endorsed.

Taken and acknowledged the day and year first above mentioned, at , before us.

J. S.
J. T.

The condition of the within written Recognizance is such, that if the within bound A. B. [of, &c.,] shall appear at the next Court of General or Quarter Sessions of the Peace [*or other Court discharging the functions of the Court of General Quarter Sessions, as the case may be*,] to be holden in and for the said District [*or* County, United Counties, *or as the case may be*] of , to do and receive what shall be then and there enjoined him by the court, and in the meantime shall keep the peace and be of good behaviour towards Her Majesty and all Her liege people, and specially towards C. D [of &c.] for the term of now next ensuing, then the said Recognizance to be void, or else to stand in full force and virtue.

FORM OF COMMITMENT IN DEFAULT OF SURETIES.

Canada,
Province of ,
District [*or* County, United Counties, *or as the case may be*] of .

To all or any of the Constables or other Peace Officers in the District [*or* County *or* United Counties, *or as the case may be*] of and to the Keeper

Keeper of the Common Gaol of the said District, (County *or* United Counties, *or as the case may be*) at , in the said District (or County, &c.,)

Whereas on the day of instant, complaint on oath was made before the undersigned (*or* J. L., Esquire,) (*one*) of Her Majesty's Justices of the Peace in and for the said District (*or* County, United Counties, *or as the case may be*) of , by C. D. of the township of , in the said District (County, *or as the case may be*) (*laborer*), that A. B. of, (&c.,) on the day of , at the township of aforesaid, did threaten (*&c., follow to end of complaint, as in form above, in the past tense, then*): And whereas the said A. B., was this day brought and appeared before the said Justice (*or* J. L., Esquire, one of Her Majesty's Justices of the Peace in and for the said District (*or* County, United Counties, *or as the case may be*) of , to answer unto the said complaint: And* having been required by me to enter into his own recognizance in the sum of with two sufficient sureties in the sum of each, as well for his appearance at the next General or Quarter Sessions of the Peace, (*or other Court discharging the functions of the Court of General or Quarter Sessions as the case may be,*) to be held in and for the said District (*or* County, United Counties, *or as the case may be,*) of , to do what shall be then and there enjoined him by the court, as also in the meantime to keep the peace and be of good behaviour towards Her Majesty and Her liege people, and especially towards the said C. D., hath refused and neglected, and still refuses and neglects to find such sureties); These are therefore to command you and each of you to take the said A. B., and him safely to convey to the (*Common Gaol*) at aforesaid, and there to deliver him to the Keeper thereof, together with this precept; And I do hereby command you the said Keeper of the (*Common Gaol*), to receive the said A. B. into your custody in the said (*Common Gaol,*) there to imprison him until the said next General *or* Quarter Sessions of the Peace (*or the next term or sitting of the said Court discharging the functions of the Court of General or Quarter Sessions, as the case may be,*) unless he, in the meantime, find sufficient sureties as well for his appearance at the said Sessions [*or* Court], as in the meantime to keep the peace as aforesaid.

Given under my hand and seal, this day of in the year of our Lord , at in the District [*or* County, *or as the case may be*] aforesaid

J. S.]L. S.]

CHAP.

CHAP. 32.

An Act respecting the prompt and summary Administration of Criminal Justice in certain cases.

[*Assented to 22nd June*, 1869.]

Preamble. HER Majesty, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows:—

Interpretation of words, &c., "A competent magistrate." **1.** In this Act the expression "a competent Magistrate" shall, as respects the Province of Quebec and the Province of Ontario, mean and include any Recorder, Judge of a County Court, being a Justice of the Peace, Commissioner of Police, Judge of the Sessions of the Peace, Police Magistrate, District Magistrate or other functionary or tribunal invested at the time of the passing of this Act with the powers vested in a Recorder by chapter one hundred and five of the Consolidated Statutes of Canada, entitled "*An Act respecting the prompt and summary administration of Criminal Justice in certain cases*," and acting within the local limits of his or of its jurisdiction, and any functionary or tribunal invested by the proper legislative authority with power to do alone such acts as are usually required to be done by two or more Justices of the Peace; and as respects the Province of Nova Scotia or the Province of New Brunswick, the said expression shall mean and include a Commissioner of Police and any functionary, tribunal or person invested or to be invested by the proper legislative authority with power to do alone such acts as are usually required to be done by two or more Justices of the Peace, and the expression "the Magistrate" shall mean a competent magistrate as above defined;

"Common gaol, &c." And the expression "the Common Gaol or other place of confinement," shall in the case of any offender whose age at the time of his conviction does not in the opinion of the magistrate exceed sixteen years, include any Reformatory Prison provided for the reception of juvenile offenders in the Province in which the conviction referred to takes place, and to which by the law of that Province the offender can be sent.

Power to a competent magistrate to try certain offences in a summary way by consent of the party accused. **2.** Where any person is charged before a competent magistrate with having committed—

Larceny. 1. Simple larceny, larceny from the person, embezzlement, or obtaining money or property by false pretences, or feloniously receiving stolen property, and the value of the whole of the property alleged to have been stolen, embezzled, obtained

tained, or received does not in the judgment of the magistrate exceed ten dollars; or

2. With having attempted to commit larceny from the person or simple larceny; or — Attempt at larceny.

3. With having committed an aggravated assault, by unlawfully and maliciously inflicting upon any other person, either with or without a weapon or instrument, any grievous bodily harm, or by unlawfully and maliciously cutting, stabbing or wounding any other person; or — Assault.

4. With having committed an assault upon any female whatever, or upon any male child whose age does not in the opinion of the magistrate exceed fourteen years, such assault being of a nature which cannot in the opinion of the magistrate be sufficiently punished by a summary conviction before him under any other Act, and such assault, if upon a female, not amounting in his opinion to an assault with intent to commit a rape; or — Assault on females or children.

5. With having assaulted, obstructed, molested or hindered any magistrate, bailiff, or constable or officer of customs or excise or other officer in the lawful performance of his duty, or with intent to prevent the performance thereof; or — On magistrates, &c.

6. With keeping or being an inmate, or habitual frequenter of any disorderly house, house of ill-fame or bawdy house; — Houses of ill-fame, and (see Sec. 15) as to cities.

The magistrate may, subject to the provisions hereinafter made, hear and determine the charge in a summary way.

3. Whenever the magistrate before whom any person is charged as aforesaid proposes to dispose of the case summarily under the provisions of this Act, such magistrate, after ascertaining the nature and extent of the charge, but before the formal examination of the witnesses for the prosecution, and before calling on the party charged for any statement which he may wish to make, shall state to such person the substance of the charge against him, and [if the charge is not one that can be tried summarily without the consent of the accused] shall then say to him, these words, or words to the like effect: "Do you consent that the charge against you shall be tried by me, or do you desire that it shall be sent for trial by a jury at the [*naming the Court at which it could soonest be tried*];" and if the person charged consents to the charge being summarily tried and determined as aforesaid, or if the power of the magistrate to try it does not depend on the consent of the accused, the magistrate shall reduce the charge into writing, and read the same to such person, — Accused to be asked if he consents to be tried summarily. — If he consents, or the jurisdiction is absolute.

son, and shall then ask him whether he is guilty or not of such charge.

If he admits the charge.

If not.

4. If the person charged confesses the charge, the magistrate shall then proceed to pass such sentence upon him as may by law be passed, [subject to the provisions of this Act,] in respect to such offence; but if the person charged says that he is not guilty, the magistrate shall then examine the witnesses for the prosecution, and when the examination has been completed, the magistrate shall inquire of the person charged whether he has any defence to make to such charge,

And if he has a defence.

and if he states that he has a defence, the magistrate shall hear such defence, and shall then proceed to dispose of the case summarily.

Sentence in case of conviction of larceny.

5. In the case of larceny, feloniously receiving stolen property or attempt to commit larceny from the person, or simple larceny, charged under the first or second sub-sections of the second section of this Act, if the magistrate after hearing the whole case for the prosecution and for the defence, finds the charge proved, then he shall convict the person charged and commit him to the common gaol or other place of confinement, there to be imprisoned, with or without hard labour, for any period not exceeding six months.

Offence not proved.

6. If in any case the magistrate finds the offence not proved, he shall dismiss the charge, and make out and deliver to the person charged a certificate under his hand stating the fact of such dismissal.

Form of conviction.

7. Every such conviction and certificate respectively may be in the forms A and B, in this Act, or to the like effect.

If the accused does not consent, or the Magistrate thinks the case proper to be otherwise tried.

8. If (when his consent is necessary) the person charged does not consent to have the case heard and determined by the magistrate, or in any case if it appears to the magistrate that the offence is one which, owing to a previous conviction of the person charged, or from any other circumstance, ought to be made the subject of prosecution by indictment rather than to be disposed of summarily, such magistrate shall deal with the case in all respects as if this Act had not been passed; but a previous conviction shall not prevent the magistrate from trying the offender summarily, if he thinks fit so to do.

Discharge in certain cases.

9. If upon the hearing of the charge the magistrate is of opinion that there are circumstances in the case which render it inexpedient to inflict any punishment, he may dismiss the person charged without proceeding to a conviction.

10.

If the value of the property exceeds $10, and the Magistrate thinks the case one to be tried summarily.

10. Where any person is charged before a competent magistrate with simple larceny, or with having obtained property by false pretences, or with having embezzled or having feloniously received stolen property, or with committing larceny from the person, or with larceny as a clerk or servant, and the value of the property stolen, obtained, embezzled, or received exceeds ten dollars, and the evidence in support of the prosecution is in the opinion of the magistrate sufficient to put the person on his trial for the offence charged, such magistrate, if the case appear to him to be one which may properly be disposed of in a summary way, and may be adequately punished by virtue of the powers of this Act, shall reduce the charge into writing and shall read it to the said person, and (unless such person is one who can be tried summarily without his consent) shall then put to him the question mentioned in section three, and shall explain to him that he is not obliged to plead or answer before such magistrate at all, and that if he do not plead or answer before him, he will be committed for trial in the usual course.

If the offender consents and pleads guilty.

11. If the person so charged consents to be tried by the magistrate, the magistrate shall then ask him whether he is guilty or not of the charge, and if such person says that he is guilty, the magistrate shall thereupon cause a plea of guilty to be entered upon the proceedings, and shall convict him of the offence, and commit him to the common goal or other place of confinement, there to be imprisoned, with or without hard labour, for any term not exceeding twelve months; and every such conviction may be in the form C, or to the like effect.

Full defence allowed.

12. In every case of summary proceedings under this Act, the person accused shall be allowed to make his full answer and defence, and to have all witnesses examined and cross-examined, by counsel or attorney.

Power to summon and compel attendance of witnesses.

13. The magistrate before whom any person is charged under this Act, may by summons require the attendance of any person as a witness upon the hearing of the case at a time and place to be named in such summons, and such magistrate may bind by recognizance all persons whom he may consider necessary to be examined touching the matter of such charge, to attend at the time and place to be appointed by him, and then and there to give evidence upon the hearing of such charge; And in case any person so summoned or required or bound as aforesaid, neglects or refuses to attend in pursuance of such summons or recognizance, then upon proof being first made of such person's having been duly summoned as hereinafter mentioned, or bound by recognizance as aforesaid, the magistrate

magistrate before whom such person ought to have attended may issue a warrant to compel his appearance as a witness.

Mode of summoning under this Act.

14. Every summons issued under this Act may be served by delivering a copy of the summons to the party summoned, or by delivering a copy of the summons to some inmate of such party's usual place of abode; and every person so required by any writing under the hand of any competent magistrate to attend and give evidence as aforesaid, shall be deemed to have been duly summoned.

Jurisdiction of Magistrate absolute in certain cases.

15. The jurisdiction of the magistrate in the case of any person charged within the police limits of any city in Canada, with therein keeping or being an inmate or an habitual frequenter of any disorderly house, house of ill-fame or bawdy house, shall be absolute, and shall not depend on the consent of the party charged to be tried by such magistrate, nor shall such party be asked whether he consents to be so tried; nor shall this Act affect the absolute summary jurisdiction given to any Justice or Justices of the Peace in any case, by any other Act.

And as to certain persons.

16. The jurisdiction of the magistrate shall also be absolute in the case of any person, being a sea-faring person and only transiently in Canada, and having no permanent domicile therein, charged, either within the City of Quebec as limited for the purpose of the police ordinance, or within the City of Montreal as so limited, or in any other seaport, city or town in Canada, where there is a competent magistrate, with the commission therein of any of the offences mentioned in the second section of this Act, and also in the case of any other person charged with any such offence on the complaint of any such sea-faring person whose testimony is essential to the proof of the offence; and such jurisdiction shall not depend on the consent of any such party to be tried by the magistrate, nor shall such party be asked whether he consents to be so tried.

Sentence on parties convicted of certain offences.

17. In any case summarily tried under the third, fourth, fifth, or sixth sub-section of the second section of this Act, if the magistrate finds the charge proved, he may convict the person charged and commit him to the common gaol or other place of confinement, there to be imprisoned with or without hard labour for any period not exceeding six months, or may condemn him to pay a fine not exceeding, with the costs in the case, one hundred dollars, or to both fine and imprisonment, not exceeding the said period and sum; and such fine may be levied by warrant of distress under the hand and seal of the magistrate, or the party convicted may be condemned (in addition to any other imprisonment on the same conviction) to be committed to the common gaol or other place

Levying any fine imposed.

place of confinement, for a further period not exceeding six months, unless such fine be sooner paid.

Forms in cases under this Act.

18. Whenever the nature of the case requires it, the forms given at the end of this Act shall be altered by omitting the words stating the consent of the party to be tried before the magistrate, and by adding the requisite words stating the fine imposed [if any] and the imprisonment [if any] to which the party convicted is to be subjected if the fine be not sooner paid.

Persons brought before J. P's may be remanded for trial under this Act.

19. Where any person is charged before any Justice or Justices of the Peace, with any offence mentioned in this Act, and in the opinion of such justice or justices, the case is proper to be disposed of by a competent magistrate, as herein provided, the justice or justices before whom such person is so charged may, if he or they see fit, remand such person for further examination before the nearest competent magistrate, in like manner in all respects as a justice or justices are authorized to remand a party accused for trial at any court, under any general Act respecting the duties of Justices of the Peace out of Sessions, in like cases.

But not into any other Province.

20. No Justice or Justices of the Peace in any Province, shall so remand any person for further examination or trial before any such magistrate in any other Province.

Before whom to be tried.

21. Any person so remanded for further examination before a competent Magistrate in any city, may be examined and dealt with by any other competent magistrate in the same city.

Party not appearing according to his recognizance.

22. If any person suffered to go at large upon entering into such recognizance as the justice or justices are authorized under any such Act as last mentioned to take, on the remand of a party accused, conditioned for his appearance before a competent magistrate under the preceding sections of this Act, does not afterwards appear pursuant to such recognizance, then the magistrate before whom he ought to have appeared shall certify (under his hand, on the back of the recognizance,) to the Clerk of the Peace of the district, county or place (as the case may be) the fact of such non-appearance, and such recognizance shall be proceeded upon in like manner as other recognizances, and such certificate shall be deemed sufficient *primâ facie* evidence of such non-appearance.

Convictions to be transmitted to Q. S., &c.

23. The magistrate adjudicating under this Act shall transmit the conviction, or a duplicate of a certificate of dismissal, with the written charge, the depositions of witnesses

for the prosecution and for the defence, and the statement of the accused, to the next Court of General or Quarter Sessions of the Peace, or to the court discharging the functions of a Court of General or Quarter Sessions of the Peace, for the district, county or place, there to be kept by the proper officer among the records of the Court.

Proof of conviction or dismissal.

24. A copy of such conviction, or of such certificate of dismissal, certified by the proper officer of the Court, or proved to be a true copy, shall be sufficient evidence to prove a conviction or dismissal for the offence mentioned therein, in any legal proceedings whatever.

Restitution of property.

25. The magistrate, by whom any person has been convicted under this Act, may order restitution of the property stolen, or taken or obtained by false pretences, in those cases in which the Court before whom the person convicted would have been tried but for this Act, might by law order restitution.

Magistrate's Courts to be open.

26. Every court, held by a competent magistrate for the purposes of this Act, shall be an open public court, and a written or printed notice of the day and hour for holding such court, shall be posted or affixed by the Clerk of the Court upon the outside of some conspicuous part of the building or place where the same is held.

Certain provisions not to apply to cases under this Act.

27. The provisions of the "*Act respecting the duties of Justices of the Peace out of Sessions, in relation to summary convictions and orders*," and the provisions of the "*Act respecting the duties of Justices of the Peace out of Sessions in relation to persons charged with indictable offences*," shall not be construed as applying to any proceedings under this Act except as mentioned in section nineteen.

Effect of conviction.

28. Every conviction by a competent magistrate under this Act shall have the same effect as a conviction upon indictment for the same offence would have had, save that no conviction under this Act shall be attended with forfeiture beyond the penalty (if any) imposed in the case.

And of dismissal.

29. Every person who obtains a certificate of dismissal or is convicted under this Act, shall be released from all further or other criminal proceedings for the same cause.

No conviction to be quashed for want of form, &c.

30. No conviction, sentence or proceeding under this Act shall be quashed for want of form; and no warrant of commitment upon a conviction shall be held void by reason of any defect therein, if it be therein alleged that the offender has been convicted, and there be a good and valid conviction to sustain the same.

31.

Act not to affect that for trial of Juvenile offenders.

31. Nothing in this Act shall affect the provisions of the "*Act respecting the trial and punishment of juvenile offenders*;" and this Act shall not extend to persons punishable under that Act, so far as regards offences for which such persons may be punished thereunder.

How fines under this Act shall be applied.

32. Every fine imposed under the authority of this Act shall be paid to the magistrate who has imposed the same, or to the clerk of the court or Clerk of the Peace, as the case may be, and shall be by him paid over to the County Treasurer for county purposes if it has been imposed in the Province of Ontario—and if it has been imposed in any new district in the Province of Quebec, constituted by any Act of the legislature of the late Province of Canada passed in or after the year one thousand eight hundred and fifty-seven, then to the sheriff of such district as treasurer of the building and jury fund for such district to form part of the said fund, —and if it has been imposed in any other district in the said Province, then to the prothonotary of such district, to be by him applied under the direction of the Lieutenant Governor in Council, towards the keeping in repair of the court house in such district, or to be by him added to the moneys and fees collected by him for the erection of a court house and gaol in such district, so long as such fees shall be collected to defray the cost of such erection; and in the Province of Nova Scotia to the County Treasurer for county purposes, and in the Province of New Brunswick to the County Treasurer for county purposes.

Interpretation of certain words.

33. In the interpretation of this Act the word "property" shall be construed to include everything included under the same word or the expression "valuable security," as used in the "*Act respecting larceny and other similar offences;*" and in the case of any "valuable security," the value thereof shall be reckoned in the manner prescribed in the said Act.

Con. Stat. Can. Cap. 105 repealed. Exception.

34. The Act cited in the first section of this Act chapter one hundred and five of the Consolidated Statutes of Canada is hereby repealed, except as to cases pending under it at the time of the coming into force of this Act and as to all sentences pronounced and punishments awarded under it, as regards all which this Act shall be construed as a re-enactment of the said Act, with amendments, and not as a new law.

Commencement of this Act.

35. This Act shall commence and take effect on the first day of January, in the year of our Lord, one thousand eight hundred and seventy.

FORM

FORM (A) *See* s. 7

CONVICTION.

Province of City (*or as the case may be*) of to wit:

Be it remembered that on the day of , in the year of our Lord , at , A. B., being charged before me the undersigned , of the said (City,) (and consenting to my deciding upon the charge summarily,) is convicted before me, for that the said A. B., &c. (*stating the offence, and the time and place when and where committed,*) and I adjudge the said A. B., for his said offence, to be imprisoned in the (and there kept to hard labour) for the space of .

Given under my hand and seal, the day and year first above mentioned, at aforesaid.

J. S. [L. S.]

FORM (B) *See* s. 7.

CERTIFICATE OF DISMISSAL.

Province of City (*or as the case may be*) of to wit:

I, the undersigned , of the City (*or as the case may be*) of , certify that on the day of in the year of our Lord , at aforesaid, A. B., being charged before me (and consenting to my deciding upon the charge summarily), for that he the said A. B., &c., (*stating the offence charged, and the time and place when and where alleged to have been committed,*) I did, after having summarily adjudicated thereon, dismiss the said charge.

Given under my hand and seal, this day of , at aforesaid.

J. S. [L. S.]

FORM (C) *See* s. 11.

CONVICTION UPON A PLEA OF GUILTY.

Province of City (*or as the case may be*) of to wit:

Be it remembered that on the day of in the year of our Lord , at A. B., being charged before me the undersigned , of the said (City,)

(City), (and consenting to my deciding upon the charge summarily) for that he the said A. B., &c., (*stating the offence, and the time and place when and where committed,*) and pleading guilty to such charge, he is thereupon convicted before me of the said offence; and I adjudge him the said A. B. for his said offence, to be imprisoned in the (and there kept to hard labour) for the space of

Given under my hand and seal, the day and year first above mentioned, at aforesaid.

J. S. [L. S]

CHAP. 33.

An Act respecting the trial and punishment of Juvenile Offenders.

[*Assented to 22nd June*, 1869.]

Preamble. HER Majesty by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows:—

Interpretation of certain expressions. **1.** In this Act the expression "any two or more justices," shall, as respects the Province of Quebec, include any two or more Justices of the Peace, the sheriff of any district except Montreal and Quebec, the deputy sheriff of Gaspe, and any Recorder, Judge of the Sessions of the Peace, Police Magistrate, District Magistrate or Stipendiary Magistrate acting within the limits of their respective jurisdictions;—and as respects the Province of Ontario, any Judge of the County Court being a Justice of the Peace, Police Magistrate or Stipendiary Magistrate, or any two Justices of the Peace, acting within their respective jurisdictions;—and as respects the Province of Nova Scotia or the Province of New Brunswick, the said expression shall mean and include any functionary or tribunal invested or to be invested by the proper legislative authority with power to do acts usually required to be done by two or more Justices of the Peace;—and the expression "the justices" shall have the same meaning as the expression "two or more Justices of the Peace as above defined; and the expression "the common gaol or other place of confinement" shall include any reformatory prison provided for the reception of juvenile offenders in the Province in which the conviction referred to takes place, and to which by the law of that Province the offender can be sent.

Persons not more than sixteen years **2.** Every person charged with having committed or having attempted to commit, or with having been an aider, abettor, counsellor

of age may be summarily convicted of certain offences before two Justices.

counsellor or procurer in the commission of any offence which is simple larceny, or punishable as simple larceny, and whose age at the period of the commission or attempted commission of such offence does not, in the opinion of the justice before whom he is brought or appears as mentioned in section seven, exceed the age of sixteen years, shall upon conviction thereof, in open court, upon his own confession or upon proof, before any two or more justices, be committed to the common gaol or other place of confinement within the jurisdiction of such justices, there to be imprisoned with or without hard labour, for any term not exceeding three months, or, in the discretion of such justices, shall forfeit and pay such sum, not exceeding twenty dollars, as the said justices may adjudge.

Defendant to be asked if he consent to be so tried.

3. The Justices before whom any person is charged and proceeded against under this Act, before such person is asked whether he has any cause to shew why he should not be convicted, shall say to the person so charged, these words, or words to the like effect:

"We shall have to hear what you wish to say in answer "to the charge against you; but if you wish to be tried by "a Jury, you must object now to our deciding upon it at "once:"

And if he does not consent.

And if such person, or a parent or guardian of such person, then objects, such person shall be dealt with as if this Act had not been passed; but nothing in this Act shall prevent the summary conviction of any such person before one or more Justices of the Peace, for any offence for which he is liable to be so convicted under any other Act.

Case dismissed if offence is not proved, &c

4. If the Justices, upon the hearing of any such case, deem the offence not proved, or that it is not expedient to inflict any punishment, they shall dismiss the party charged, in the latter case on his finding sureties for his future good behaviour, and in the former case without sureties, and then make out and deliver to the party charged, a certificate under the hands of such Justices stating the fact of such dismissal.

Form of certificate in such case.

Such certificate shall be in the form or to the effect set forth in the form following:

To wit: } We , of Her Majesty's Justices of the Peace for the , of , (*or if a Recorder, &c*,) I, a , of the of , (*as the case may be*) do hereby certify, that on the day of , in the year of our Lord, , at , in the said of , M. N., was brought before us the said Justices (*or* me the said) charged with the following offence, that

that is to say (*here state briefly the particulars of the charge*), and that we the said Justices (*or* I the said) thereupon dismissed the said charge.

Given under our hands (*or* my hands) this day of

Justices may send case to be tried by a Jury, if they see fit.

5. If the Justices are of opinion, before the person charged has made his defence, that the charge is from any circumstance a fit subject for prosecution by indictment, or if the person charged, upon being called upon to answer the charge, objects to the case being summarily disposed of under the provisions of this Act such Justices shall, instead of summarily adjudicating thereupon deal with the case in all respects, as if this Act had not been passed; but this shall not prevent his being afterwards tried summarily by his own consent by a Judge of a County Court in the Province of Ontario, under any Act then in force for that purpose.

No further prosecution for the same offence.

6. Every person obtaining such certificate of dismissal as aforesaid, and every person convicted under the authority of this Act, shall be released from all further or other criminal proceedings for the same cause.

Compelling party accused to attend.

7. In case any person whose age is alleged not to exceed sixteen years be charged with any offence mentioned in section two, on the oath of a credible witness before any Justice of the Peace, such justice may issue his summons or warrant, to summon or to apprehend the person so charged, to appear before any two Justices of the Peace, at a time and place to be named in such summons or warrant.

Power to remand or take bail.

8. Any Justice or Justices of the Peace, if he or they think fit, may remand for further examination or for trial, or suffer to go at large upon his finding sufficient sureties, any such person charged before him or them with any such offence as aforesaid.

Condition of recognizance.

9. Every such surety shall be bound by recognizance to be conditioned for the appearance of such person before the same or some other Justice or Justices of the Peace for further examination, or for trial before two or more Justices of the Peace as aforesaid, or for trial by indictment at the proper Court of Criminal Jurisdiction, as the case may be.

Enlarging or discharging recognizance.

10. Every such recognizance may be enlarged from time to time by any such justice or justices or court to such further time as he or they appoint; and every such recognizance not so enlarged shall be discharged without fee or reward when the party has appeared according to the condition thereof.

11.

Summoning witnesses.

11. Any Justice of the Peace may, by summons, require the attendance of any person as a witness upon the hearing of any case before two justices under the authority of this Act, at a time and place to be named in such summons.

Binding witnesses over.

12. Any such justice may require and bind by recognizance all persons whom he considers necessary to be examined touching the matter of such charge, to attend at the time and place appointed by him, and then and there to give evidence upon the hearing of such charge.

Compelling attendance in case of refusal.

13. In case any person so summoned or required or bound as aforesaid, neglects or refuses to attend in pursuance of such summons or recognizance, then upon proof being first given of such person having been duly summoned as hereinafter mentioned, or bound by recognizance as aforesaid, either of the justices before whom any such person ought to have attended, may issue a warrant to compel his appearance as a witness.

Summons to witness, how served.

14. Every summons issued under the authority of this Act, may be served by delivering a copy thereof to the party or to some inmate at such party's usual place of abode, and every person so required by any writing under the hand or hands of any justice or justices to attend and give evidence as aforesaid, shall be deemed to have been duly summoned.

Form of conviction.

15. The justices before whom any person is summarily convicted of any such offence as hereinbefore mentioned, may cause the conviction to be drawn up in the following form, or in any other form of words to the same effect, (varying the wording to suit the case,) that is to say:

, } Be it remembered that on the day of
To wit: }, in the year of our Lord one thousand eight hundred and , at , in the District of , (County *or* United Counties, &c., *or as the case may be*) A. O. is convicted before us J. P., and J. R., two of Her Majesty's Justices of the Peace for the said District (*or* City, &c.,) (*or* me, S. J., *Recorder*, &c., of the of , *or as the case may be*) for that he the said A. O. did (*specify the offence and the time and place when and where the same was committed, as the case may be, but without setting forth the evidence*), and we the said J. P. and J. R., (*or* I the said S. J.) adjudge the said A. O. for his said offence to be imprisoned in the (*or* to be imprisoned in the and there kept at hard labour) for the space of , (*or* we, *or* I) adjudge the said A. O. for his said offence to forfeit and pay) (*here state the penalty actually imposed,*) and in default of immediate payment of the said sum, to be imprisoned in the

(*or*

(*or* to be imprisoned in the , and kept at hard labour) for the space of , unless the said sum shall be sooner paid.

Given under our hands and seals, (*or* my hand and seal) the day and year first above mentioned.

And the conviction shall be good and effectual to all intents and purposes.

Conviction not void for want of form.

16. No such conviction shall be quashed for want of form, or be removed by *certiorari* or otherwise into any of Her Majesty's Superior Courts of Record; and no warrant of commitment shall be held void by reason of any defect therein, provided it be therein alleged that the party has been convicted, and there is a good and valid conviction to sustain the same.

No *certiorari*.

Convictions to be sent to Clerks of the Peace, &c.

17. The justices before whom any person is convicted under the provisions of this Act, shall forthwith transmit the conviction and recognizances to the Clerk of the Peace for the district, city, county or union of counties wherein the offence was committed, there to be kept by the proper officer among the records of the Court of General or Quarter Sessions of the Peace, or of any other court discharging the functions of a Court of General or Quarter Sessions of the Peace.

Returns to Secretary of State.

18. Each such Clerk of the Peace shall transmit to the Secretary of State of Canada, a quarterly return of the names, offences, and punishments mentioned in the convictions, with such other particulars as may from time to time be required.

No forfeiture, but restitution may be ordered.

19. No conviction under the authority of this Act shall be attended with any forfeiture, except such penalty as may be imposed by the sentence, but whenever any person is adjudged guilty under the provisions of this Act, the presiding justice may order restitution of the property in respect of which the offence was committed, to the owner thereof or his representatives.

Or the payment of the value in money.

20. If such property be not then forthcoming, the justices, whether they award punishment or dismiss the complaint, may inquire into and ascertain the value thereof in money, and if they think proper, order payment of such sum of money to the true owner, by the person convicted, either at one time or by instalments, at such periods as the court deems reasonable.

Recovery of such value.

21. The party so ordered to pay may be sued for the same as a debt in any court in which debts of the like amount may

may be, by law, recovered, with costs of suit, according to the practice of such court.

Enforcing payment of penalties.

22. Whenever the justices adjudge any offender to forfeit and pay a pecuniary penalty under the authority of this Act, and such penalty is not forthwith paid, they may if they deem it expedient, appoint some future day for the payment thereof, and order the offender to be detained in safe custody until the day so to be appointed, unless such offender gives security to the satisfaction of the justices for his appearance on such day; and the justices may take such security by way of recognizance or otherwise at their discretion.

Committal for non-payment.

23. If at any time so appointed such penalty has not been paid, the same or any other Justices of the Peace may, by warrant under their hands and seals, commit the offender to the common gaol or other place of confinement within their jurisdiction, there to remain for any time not exceeding three months, reckoned from the day of such adjudication: such imprisonment to cease on payment of the said penalty.

Costs of prosecution may be awarded

24. The justices before whom any person is prosecuted or tried for any offence cognizable under this Act, may, in their discretion, at the request of the prosecutor or of any other person who appears on recognizance or summons to prosecute or give evidence against such person, order payment to the prosecutor and witnesses for the prosecution, of such sums of money as to them seem reasonable and sufficient, to reimburse such prosecutor and witnesses for the expenses they have severally incurred in attending before them, and in otherwise carrying on such prosecution, and also to compensate them for their trouble and loss of time therein, and may order payment to the constables and other peace officers for the apprehension and detention of any person so charged.

Even without conviction.

25. And although no conviction takes place, the said justices may order all or any of the payments aforesaid, when they are of opinion that the parties or any of them have acted *bonâ fide*.

To whom and for what purpose fines shall be paid over.

26. Every fine imposed under the authority of this Act shall be paid to the justices who impose the same, or to the Clerk of the Recorder's Court, or the Clerk of the County Court, or the Clerk of the Peace, or other proper officer, as the case may be, and shall be by him or them paid over to the County Treasurer for county purposes, if the same was imposed in the Province of Ontario; and if it was imposed in any new district in the Province of Quebec, then to the sheriff of such district as treasurer of the Building and Jury Fund for such district, to form part of the said fund, and if it

it was imposed in any other district in the Province of Quebec then to the prothonotary of such district, to be by him applied, under the direction of the Lieutenant Governor in Council, towards the keeping in repair of the court house in such district, or to be by him added to the moneys or fees collected by him, for the erection of a court house or gaol in such district, so long as such fees are collected to defray the cost of such erection; and if it was imposed in the Province of Nova Scotia it shall be paid over to the County Treasurer, for county purposes; and if it was imposed in the Province of New Brunswick, it shall be paid over to the County Treasurer, for county purposes.

Certificate of expenses.

27. The amount of expenses of attending before the justices and the compensation for trouble and loss of time therein, and the allowances to the constables and other peace officers for the apprehension and detention of the offender, and the allowances to be paid to the prosecutor, witnesses and constables for attending at the trial or examination of the offender, shall be ascertained by and certified under the hands of such justices; but the amount of the costs, charges and expenses attending any such prosecution, to be allowed and paid as aforesaid, shall not in any one case exceed the sum of eight dollars.

By whom such expenses shall be paid.

28. Every such order of payment to any prosecutor or other person, after the amount thereof has been certified by the proper Justices of the Peace as aforesaid, shall be forthwith made out and delivered by the said justices or one of them, or by the Clerk of the Recorder's Court, Clerk of the County Court or Clerk of the Peace, as the case may be, unto such prosecutor or other person, upon such clerk being paid his lawful fee for the same, and shall be made upon the officer to whom fines imposed under the authority of this Act are required to be paid over in the district, city, county or union of counties in which the offence was committed, or was supposed to have been committed, who upon sight of every such order, shall forthwith pay to the person named therein, or to any other person duly authorized to receive the same on his behalf, out of any moneys received by him under this Act, the money in such order mentioned, and shall be allowed the same in his accounts of such moneys.

Con. Stat. c. 106, repealed. Exception.

29. The Act chapter one hundred and six of the Consolidated Statutes of Canada is hereby repealed, except as to cases pending under it at the time of the coming into force of this Act, and as to all sentences pronounced and punishments awarded under it; as regards all which this Act shall be construed as a re-enactment of the said Act with the amendments hereby made and not as a new law.

30.

Commencement of this Act.

30. This Act shall commence and take effect on the first day of January, in the year of our Lord one thousand eight hundred and seventy.

CHAP. 34.

An Act respecting Juvenile Offenders within the Province of Quebec.

[*Assented to 22nd June*, 1869.]

Preamble.

WHEREAS the legislature of the Province of Quebec, during its now last Session, passed an Act making certain provisions for the establishment of certified reformatory schools, and the law respecting prisons for young offenders requires to be amended so as to meet the provisions of the said Act; Therefore Her Majesty by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows:—

Part of c. 107, of Con. Stat. Can. repealed.

1. In so far as respects the Province of Quebec, the sections five, six, seven, eight, nine, ten, eleven and twelve of the chapter one hundred and seven of the Consolidated Statutes of Canada, intituled: "*An Act respecting Prisons for young Offenders*," are hereby repealed, except as respects persons under sentence when this Act comes into force.

Offenders under 16 years may be sent to Reformatory Schools.

2. Whenever, after the passing of this Act, any person apparently under the age of sixteen years is convicted before any court of criminal jurisdiction or before any Judge of the Sessions of the Peace, Recorder, District or Police Magistrate, of any offence for which he would be liable to imprisonment, he may be sentenced on such conviction, to be detained in a certified reformatory school for any term not less than two years, nor more than five years, or he may be sentenced to be first imprisoned in the common gaol for a period not in any case exceeding three months, and at the expiration of his sentence to be sent to a certified reformatory school, and to be there detained for a period of not less than two years, and not more than five years.

Power to discharge.

3. The Lieutenant-Governor may at any time, in his discretion, order that any offender detained in such reformatory school under a summary conviction be discharged.

Removal of incorrigibles.

4. The Lieutenant-Governor may at any time, on the report of one of the inspectors of prisons for the Province of Quebec, order any offender undergoing sentence in any certified reformatory school, on a conviction for felony, to be removed

removed as incorrigible ; and in any such case the offender shall be imprisoned in the penitentiary for the remainder of the term of his sentence.

Detention of offenders under 16 years previous to trial.

5. Any person apparently under the age of sixteen years, arrested on a charge of having committed any offence not capital, shall not, while awaiting trial for such offence, be detained in any common gaol, if there be a certified reformatory school within three miles of such gaol, but shall be detained in such reformatory school while awaiting trial ; and if there be more than one such school within such distance, the person so charged shall be detained in that one of them which is conducted the most nearly in accordance with the religious belief to which his parents belong, or in which he has been educated.

Punishment of persons breaking the Rules of Reformatory Schools.

6. If any offender detained in a certified reformatory school, wilfully neglects or wilfully refuses to conform to the rules thereof, he shall, upon summary conviction before a justice or magistrate having jurisdiction in the place or district where the school is situate, be imprisoned with hard labour, for any term not exceeding three months ; and at the expiration of the term of his imprisonment, he shall, by and at the expense of the managers of the school, be brought back to the school from which he was taken, there to be detained during a period equal to so much of his period of detention as remained unexpired at the time of his being sent to the prison.

Apprehension of offenders escaping from such Schools.

7. If any offender sentenced to be detained in a certified reformatory school, escapes therefrom, he may at any time before the expiration of his period of detention, be apprehended without warrant, and if the managers of the school think fit, but not otherwise, may, (any other Act to the contrary notwithstanding) be then brought before a justice or magistrate having jurisdiction in the place or district where he is found, or in the place or district where the school from which he escaped is situate ; and he shall thereupon be liable, on summary conviction before such a justice or magistrate, to be imprisoned with hard labor, for any term not exceeding three months ; and at the expiration of such term he shall, by and at the expense of the managers of the school, be brought back to the school from which he escaped, there to be detained during a period equal to so much of his period of detention as remained unexpired at the time of his escaping.

Punishment of persons aiding in escape, &c.

8. Every person who commits any of the following offences, that is to say :—

First—Knowingly assists, directly or indirectly, any offender detained in a certified reformatory school, to escape from the school ;

Second

Second—Directly or indirectly induces such an offender to escape from the school;

Harbouring persons escaping.

Third—Knowingly harbours, conceals or prevents from returning to the school, or assists in harbouring, concealing or preventing from returning to the school any offender who has escaped from a certified reformatory school, shall, on summary conviction before two justices, or any Judge of the Sessions of the Peace, Recorder, Police or District Magistrate, be liable to a penalty not exceeding eighty dollars, or at the discretion of the justices or other functionary before whom he is convicted, to be imprisoned for any term not exceeding two months, with or without hard labor.

A certain Reformatory School recognized.

9. The reformatory prison at present in use in the Province of Quebec, shall, so long as it is used for that purpose, be held to be a certified reformatory school for the purposes of this Act.

Act to apply only to Quebec, &c.

10. This Act shall apply only to the Province of Quebec, and any Act relating to criminal law or procedure passed during the present or the now last Session of Parliament, shall be construed subject to this Act, and so much thereof as may be inconsistent with this Act, shall have no effect as respects the Province of Quebec.

CHAP. 35.

An Act for the more speedy trial, in certain cases, of persons charged with felonies and misdemeanors, in the Provinces of Ontario and Quebec.

[*Assented to 22nd June*, 1869.]

Preamble.

HER MAJESTY, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows:—

Certain offenders may, by their own consent, be tried by a Judge only.

1. Any person committed to a jail for trial on a charge of being guilty of any offence for which he may be tried at a Court of General Sessions of the Peace, may, with his own consent, of which consent an entry shall then be made of record, and subject to the provisions hereinafter made, be tried out of sessions, and if convicted, may be sentenced by the judge.

Duty of Sheriff having a prisoner so triable.

2. It shall be the duty of every sheriff within twenty-four hours after any prisoner charged as aforesaid is committed to gaol for trial, to notify the judge in writing that such

such prisoner is so confined, stating his name and the nature of the charge preferred against him; whereupon, with as little delay as possible, such judge shall cause the prisoner to be brought up before him.

Statement to be made to prisoner by Judge.

3. Having obtained the depositions on which the prisoner was so committed, the judge shall state to him,—

1. That he is charged with the offence, describing it;

2. That the prisoner has his option to be forthwith tried before such judge without the intervention of a jury, or to remain untried until the next sittings of such sessions or of a Court of Oyer and Terminer, or, in Quebec, of any court having criminal jurisdiction;

If prisoner objects—or consents.

3. If the prisoner demands a trial by jury, the judge shall remand him to gaol; but if he consents to be tried by the judge without a jury, the County Attorney or Clerk of the Peace shall draw up a record of the proceedings as nearly as may be in one of the forms in the Schedules A and B to this Act; if upon being arraigned upon the charge, the prisoner pleads guilty, such plea shall be entered in the record, and the judge shall pass the sentence of the law on such prisoner, which shall have the same force and effect as if passed at any Court of General Sessions of the Peace.

If he pleads guilty.

If he pleads not guilty.

4. If the prisoner upon being so arraigned and consenting as aforesaid pleads not guilty, the judge shall appoint an early day, or the same day, for his trial, and it shall be the duty of the County Attorney or Clerk of the Peace to subpœna the witnesses named in the depositions, or such of them, and such other witnesses as he may think requisite to prove the charge, to attend at the time appointed for such trial, and the prisoner being ready, the judge shall proceed to try him, and if he is found guilty, sentence shall be passed as in the last preceding section mentioned, but if he is found not guilty, the judge shall immediately discharge him from custody, so far as respects the charge in question.

Trial, and conviction or discharge.

To be a Court of Record.

5. The judge sitting on any such trial for all the purposes thereof and proceedings connected therewith or relating thereto, is hereby constituted a Court of Record, and the record in any such case shall be filed among the records of the Court of General Sessions of the Peace, as indictments are, and as part of such records.

Witnesses summoned must attend.

6. Any witness, whether on behalf of the prisoner or against him, duly summoned or subpœnaed to attend and give evidence before such judge sitting on any such trial on the

the day appointed for the same shall be bound to attend, and remain in attendance throughout the whole trial, and in case he fails so to attend, he shall be held guilty of contempt of court, and he may be proceeded against therefor accordingly.

Proceedings against witnesses failing to attend when summoned.

7. Upon proof to the satisfaction of the judge of the service of subpœna upon any witness who fails to attend before him as required by such subpœna and such judge being satisfied that the presence of such witness before him is indispensable to the ends of justice, he may, by his warrant, cause the said witness to be apprehended and forthwith brought before him to give evidence as required by such subpœna, and to answer for his disregard of the same, and such witness may be detained on such warrant before the said judge or in the common gaol with a view to secure his presence as a witness, or, in the discretion of the judge, such witness may be released on recognizance with or without sureties conditioned for his appearance to give evidence as therein mentioned, and to answer for his default in not attending upon the said subpœna as for a contempt; the judge may in a summary manner examine into and dispose of the charge of contempt against the said witness, who if found guilty thereof may be fined or imprisoned, or both,—such fine not to exceed one hundred dollars, and such imprisonment to be in the common gaol, with or without hard labour, and not to exceed the term of ninety days; the said warrant may be in the form "C," and the conviction for contempt in the form "D" to this Act, and shall be authority to the persons and officers therein required to act, to do as therein they are respectively directed.

By whom the powers given by this Act may be exercised.

8. All the powers and duties hereby conferred and imposed upon the judge, shall be exercised and performed in the Province of Ontario by any County Judge, Junior or Deputy Judge, authorized to act as Chairman of the General Sessions of the Peace, and in the Province of Quebec, in any district, wherein there is a Judge of the Sessions, by such Judge of Sessions, and in any district wherein there is no Judge of Sessions but wherein there is a District Magistrate, by such District Magistrate, and in any district wherein there is neither a Judge of Sessions nor a District Magistrate, by the Sheriff of such district.

Extent of Act.

9. This Act shall apply only to the Provinces of Ontario and Quebec.

SCHEDULE

SCHEDULE A.

Form of Record when the Prisoner pleads Not Guilty.

Province of , } Be it remembered that A. B. being
County *or* District of } a prisoner in the gaol of the said
, to wit : } County *or* District, committed for trial on a charge of having on day of 186 , feloniously stolen, &c., (*one cow, the property of C. D., or as the case may be, stating briefly the offence*), and being brought before me, (*describe the Judge*) on the day of 186 , and asked by me if he consented to be tried before me without the intervention of a Jury, consented to be so tried ; and that upon the day of 186 , the said A. B. being again brought before me for trial, and declaring himself ready, was arraigned upon the said charge and pleaded not guilty ; and after hearing the evidence adduced as well in support of the said charge as for the prisoner's defence (*or as the case may be*) I find him to be guilty of the offence with which he is charged as aforesaid, and I accordingly sentence him to be (*here insert such sentence as the law allows and the Judge thinks right,*) *or* I find him not guilty of the offence with which he is charged, and discharge him accordingly. Witness my hand at in the County (*or* District) of , this day of 186 .

O. K.
Signature of Judge.

SCHEDULE B.

Form of Record when the Prisoner pleads Guilty.

Province of , } Be it remembered that A. B. being
County *or* District of } a prisoner in the gaol of the said
, To wit : } County (*or* District), on a charge of having on the day of 186 , feloniously stolen, &c., (*one cow the property of, or as the case may be, stating briefly the offence,*) and being brought before me (*describe the Judge*) on the day of 186 , and asked by me if he consented to be tried before me without the intervention of a jury, consented to be so tried : and that the said A. B. being then arraigned upon the said charge, he pleaded guilty thereof, whereupon I sentence the said A. B., to be (*here insert such sentence as the law allows and the Judge thinks right.*) Witness my hand this day of 186 .

O. K.
Signature of Judge.

SCHEDULE C.

(L. S.) Canada, Province of , County (*or* District, *as the case may be*) of , to wit:

To all or any of the Constables or other Peace Officers in the said County, (*or* District, *as the case may be*) of

Whereas it having been made to appear before me, that E. F., in the said County (*or* District) (*or as the case may be,*) was likely to give material evidence on behalf of the prosecution or defence (*as the case may be*) on the trial of a certain charge of (as *larceny, or as the case may be,*) against A. B., and that the said E. F., was duly subpœnaed or bound under recognizances to appear on the day of , 186 , at in the said (County *or* District, *as the case may be,*) at o'clock (forenoon *or* afternoon, *as the case may be,*) before me to testify what he should know concerning the said charge against the said E. F.

And whereas proof hath this day been made before me upon oath of such subpœna having been duly served upon the said E. F., or of the said E. F. having been duly bound in recognizances to appear before me, (*as the case may be,*); And whereas the said E. F., hath neglected to appear at the trial and place appointed and no just excuse has been offered for such neglect; These are therefore to command you to take the said E. F., and to bring and have him forthwith before me, to testify what he shall know concerning the said charge against the said A. B., and also to answer his contempt for such neglect.

Given under my hand this day of in the year of Our Lord 186 .

J. S.,
Judge.

SCHEDULE D.

(L. S.) Canada, Province of , (County, *or* District) of , To wit:

Be it remembered that on the day of in the year of our Lord 186 , in the (County *or* District *as the case may be*) of E. F. is convicted before me, for that he the said E. F. did not attend before me to give evidence on the trial of a certain charge against one A. B. of larceny, (*or as the case may be*) although duly subpœnaed or bound by recognizance to appear and give evidence in that behalf (*as the case may be*) but made default therein, and hath not shewn before me any sufficient excuse for such default, and I adjudge the said E. F. for his said offence to be imprisoned in the common gaol of the (County

(County *or* District) of at for the space of there to be kept at hard labor (*and in case a fine is also intended to be imposed, then proceed.*) And I also adjudge that the said E. F. do forthwith pay to and for the use of Her Majesty a fine of dollars, and in default of payment that the said fine with the costs of collection be levied by distress and sale of the goods and chattels of the said E. F. (*or in case a fine alone is imposed, then the clause for imprisonment will be omitted.*)

Given under my hand at in the said (County *or* District) of the day and year first above mentioned.

J. S.,
Judge.

CHAP. 36.

An Act respecting the Criminal Law, and to repeal certain enactments therein mentioned.

[*Assented to 22nd June*, 1869.]

Preamble.

WHEREAS by the several Acts of the Parliament of Canada, passed in the now last session and present session thereof respectively, and mentioned in the Schedule A to this Act, divers Acts and parts of Acts and provisions of law, heretofore in force in the late Province of Canada, and in the Provinces of Nova Scotia and New Brunswick, have been assimilated, amended and consolidated, and it is expedient to provide for the repeal thereof, and of so much of any other Acts or provisions of law as may be contrary to or superseded by the said Acts mentioned in Schedule A; Therefore Her Majesty, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows:—

Acts and enactments in Schedule B repealed.

1. The Acts and parts of Acts mentioned in Schedule B hereunto annexed, are hereby repealed, as are also all other Acts and parts of Acts and provisions of law, contrary to or inconsistent with the Acts mentioned in Schedule A or any of them, subject to the following provisions:

Exception as to subjects under control of Local Legislatures.

Such repeal shall not extend to matters relating solely to subjects as to which the Provincial Legislatures have, under "*The British North America Act*, 1867," exclusive powers of legislation, or to any enactment of any such Legislature for enforcing by fine, penalty or imprisonment any law in relation to any such subject as last aforesaid, or to any municipal

pal By-law relating to any offence within the scope of the powers of the municipality :

Not to affect certain Acts of the Dominion, or Acts making provision on the same subject as Acts in Schedule A., &c.

Such repeal shall not extend to any provision of any Act of the Parliament of Canada, creating, or providing for the punishment of any offence against such Act, or for the proceedings for enforcing such provision,—or to any other Act or enactment not mentioned as repealed in Schedule B, and not contrary to the Acts mentioned in Schedule A, or any of them, but making special provision for the punishment of any offence, or as to the proceedings for the prosecution and conviction of the offender, other than that made in the Acts in Schedule A or any of them for a like purpose ; but in any such case the offender may be indicted or otherwise proceeded against, and convicted (summarily or otherwise as the case may be,) and punished, either under any of the Acts mentioned in Schedule A. or any other Act of the Parliament of Canada, or under any such Act or enactment as aforesaid not mentioned as repealed in Schedule B :

As to offences committed and things done prior to such repeal.

Every offence wholly or partly committed against any Act or enactment hereby repealed, prior to such repeal, shall be dealt with, inquired of, tried, determined and punished, and every penalty in respect of any such offence shall be recovered, in the same manner as if the said Acts and enactments had not been repealed ; and every Act duly done, and every Warrant and other instrument duly made or granted before such repeal, shall continue and be of the same force and effect as if the said Acts and enactments had not been repealed ; and every right, liability, privilege and protection in respect of any matter or thing committed or done before such repeal, shall continue and be of the same force and effect as if the said Acts and enactments had not been repealed, and every action, prosecution or other proceeding commenced before such repeal, or thereafter commenced in respect of any such matter or thing, may be prosecuted, continued and defended as if such Acts and enactments had not been repealed.

As to crime of High Treason.

2. Nothing in any of the Acts mentioned in Schedule A shall affect the crime of High Treason, except only as respects cases punishable under the provisions of the "*Act for the better security of the Crown and of the Government*," mentioned in the said Schedule.

Special provision as to peremptory challenges and warrants in New Brunswick.

3. The provisions in the Act respecting procedure in criminal cases and other matters relating to criminal law, as to the number of peremptory challenges allowed to prisoners in criminal cases, shall not apply to any trial to be had in the Province of New Brunswick, before the first day of January,

uary, in the year of our Lord one thousand eight hundred and seventy-one; and until after the said day, a Warrant issued by a Justice of the Peace in the said Province, may as heretofore be executed in any part thereof, without being backed.

And as to seals to warrants, there and in other parts of Canada.

4. No provision in any of the Acts mentioned in the said Schedule A requiring any warrant or document issued or granted by any Justice of the Peace, to be under seal, shall apply to any such instrument or document issued or granted in the Province of New Brunswick before the day last aforesaid; and if, in any such instrument or document issued in any Province in Canada at any time, it is stated, that the same is given under the hand and seal of any justice signing it, such seal shall be presumed to have been affixed by him, and its absence shall not invalidate the instrument, or such justice may at any time thereafter affix such seal with the same effect as if it had been affixed when such instrument was signed.

Special provision as to imprisonment in New Brunswick or Nova Scotia.

5. Notwithstanding any provision in any of the Acts mentioned in Schedule A, that any term of imprisonment less than two years shall be in some gaol or place of confinement other than the penitentiary, any offender sentenced under any such Act before the day last aforesaid in New Brunswick or Nova Scotia, to imprisonment for a term less than two years, may, in the discretion of the Court passing such sentence, be sentenced to undergo such imprisonment in the penitentiary of the Province where the sentence is passed, instead of being sentenced to undergo the same in any other gaol or place of confinement, and any such provision as first aforesaid, shall be construed subject to this section.

As to the officers to whom recognizances are to be transmitted in Ontario and elsewhere.

6. In all cases when a party who has entered into a recognizance under the Act "*respecting the duties of Justices of the Peace out of Sessions, in relation to summary convictions and orders,*" has failed to appear according to the condition of such recognizance, and his default has been certified by the justice or justices as therein provided, the proper officer to whom the recognizance and certificate of default are to be transmitted in the Province of Ontario, shall be the Clerk of the Peace of the county for which such justice or justices are appointed or are acting, and the Court of General Sessions of the Peace for such county shall, at its then next sitting, order all such recognizances to be forfeited and estreated, and the same shall be enforced and collected in the same manner and subject to the same conditions as any fines, forfeitures or amercements imposed by or forfeited before such court; and in the other Provinces of Canada, the "proper officer" to whom

whom any such recognizance and certificate shall be transmitted, shall be the officer to whom like recognizances have been heretofore accustomed to be transmitted under the law in force before the coming into force of the said Act, and such recognizances shall be enforced and collected in the same manner as like recognizances have heretofore been.

As to returns by Justices of the Peace.

7. No return purporting to be made by any Justice of the Peace under the Act last above cited, shall be vitiated by the fact of its including, by mistake, any convictions or orders had or made before him in any matter over which any Provincial Legislature has exclusive jurisdiction, or with respect to which he may have acted under the authority of any provincial law.

Certain magistrates to have the powers of two Justices.

8. Any Judge of the Sessions of the Peace or any District Magistrate, in the Province of Quebec, shall in all cases have all the powers vested in two Justices of the Peace by any Act mentioned in Schedule A, or any other Act relating to criminal law, in force in that Province.

When the repeal shall take effect.

9. The foregoing provisions of this Act, and the repeal of the Acts and enactments therein referred to, shall take effect on and after the first day of January, in the year of our Lord, one thousand eight hundred and seventy, and not before, except as to such of the said Acts and enactments as are contrary to or inconsistent with the Acts mentioned in Schedule A, as being passed in the now last Session of the Parliament of Canada, which shall be held to have been repealed from the time when the Act or Acts to or with which they are contrary or inconsistent, came into force.

How this Act shall be construed.

10. This Act shall be construed as having been passed after the Acts of the present Session mentioned in Schedule A, and as amending and explaining them.

SCHEDULE A.

ACTS OF THE PARLIAMENT OF CANADA.

Acts passed in the Session of 1867–8, 31*st Victoria.*

CHAPTER.	TITLE.
14	An Act to protect the inhabitants of Canada against lawless aggressions from subjects of foreign countries at peace with Her Majesty.
15	An Act to prevent the unlawful training of persons to the use of arms, and the practice of military evolutions; and to authorize Justices of the Peace to seize and detain arms collected or kept for purposes dangerous to the public peace.
47	An Act respecting the manufacture or importation of copper coins or tokens.
62	An Act respecting Harbor Police.
69	An Act for the better security of the Crown and of the Government.
70	An Act respecting Riots and Riotous Assemblies.
71	An Act respecting forgery, perjury and intimidation in connection with the Provincial Legislatures and their Acts
72	An Act respecting accessories to and abettors of indictable offences.
73	An Act respecting Police of Canada.
74	An Act respecting persons in custody charged with high treason or felony.
75	An Act respecting penitentiaries and the directors thereof and for other purposes.

Acts passed in the present Session of the Parliament of Canada.

An Act to remove doubts as to Legislation in Canada, regarding offences not wholly committed within its limits.
An Act respecting offences relating to the Coin.
An Act respecting Forgery.
An Act respecting offences against the Person.
An Act respecting Larceny and other similar offences.
An Act respecting malicious injuries to Property.
An Act respecting Perjury.

An

An Act for the better preservation of peace in the vicinity of Public Works.

An Act respecting certain offences relative to Her Majesty's Army and Navy.

An Act for the better protection of Her Majesty's Military and Naval Stores.

An Act respecting Cruelty to Animals.

An Act respecting Vagrants.

An Act respecting Procedure in Criminal Cases and other matters relating to Criminal Law.

An Act respecting the duties of Justices of the Peace, out of Sessions, in relation to persons charged with Indictable Offences.

An Act respecting the duties of Justices of the Peace, out of Sessions, in relation to Summary Convictions and Orders.

An Act respecting the prompt and summary administration of criminal justice in certain cases.

An Act respecting the trial and punishment of Juvenile Offenders.

An Act respecting Juvenile Offenders within the Province of Quebec.

An Act for the more speedy trial in certain cases of persons charged with felonies and misdemeanors, in the Provinces of Ontario and Quebec.

SCHEDULE B.

ACTS OF THE LEGISLATURE OF THE LATE PROVINCE OF CANADA.

Consolidated Statutes of Canada.

Reference to Act.	TITLE OF ACT.	Extent of Repeal.
Chapter 30	An Act respecting the Sale of Intoxicating Liquors near Public Works.	The whole.
Chapter 90	An Act respecting Offences against the State.	The whole.
Chapter 91	An Act respecting Offences against the Person.	The whole.
Chapter 92	An Act respecting Offences against Person and Property.	The whole.
Chapter 93	An Act respecting Arson and other Malicious Injuries to Property.	The whole.
Chapter 94	An Act respecting Forgery.	The whole.

SCHEDULE B.—*Continued.*

Reference to Act.	TITLE OF ACT.	Extent of Repeal.
Chapter 96	An Act respecting Cruelty to Animals.	The whole.
Chapter 99	An Act respecting the Procedure in Criminal Cases.	The whole, except sections eighty-seven, ninety-seven, one hundred and twenty, and one hundred and twenty-one.
Chapter 102	An Act respecting the Duties of Justices of the Peace, out of Sessions, in relation to persons charged with Indictable Offences.	The whole, except section fifty-nine.
Chapter 103	An Act respecting the Duties of Justices of the Peace, out of Sessions, in relation to Summary Convictions and Orders.	The whole except sections seventy-four, seventy-five, seventy-six, seventy-seven, seventy-eight, seventy-nine, eighty, eighty-one and eighty-five.
Chapter 105	An Act respecting the prompt and summary administration of Criminal Justice in certain cases.	The whole, except sections thirty, thirty-one, thirty-two, and thirty-three.
Chapter 106	An Act respecting the trial and punishment of Juvenile Offenders.	The whole, except sections six, seven, and eight.

Acts passed since the Consolidation of the Statutes.

Reference to Act	TITLE OF ACT.	Extent of Repeal.
23 V., c. 37	An Act for the further protection of Growing Timber.	The whole.
24 V., c. 7	An Act to Amend the Law relating to the unlawful Administering of poison.	The whole.

SCHEDULE

SCHEDULE B.—*Continued.*

Reference to Act.	TITLE OF ACT.	Extent of Repeal.
24 V., c. 10	An Act to prevent vexatious Indictments for certain Misdemeanors.	The whole.
24 V., c. 11	An Act to amend *the Prison and Asylum Inspection Act.*	The whole.
24 V., c. 12	An Act to amend the one hundred and eleventh chapter of the Consolidated Statutes of Canada, intituled: "An Act respecting the Provincial Penitentiary of Canada."	The whole.
24 V., c. 14	An Act to abolish the right of Courts of Quarter Sessions and Recorders' Courts to try treasons and capital felonies.	The whole.
24 V., c. 15	An Act to amend the one hundred and second chapter of the Consolidated Statutes of Canada, intituled: "An Act respecting the duties of Justices of the Peace out of Sessions in relation to persons charged with indictable offences."	The whole.
24 V., c. 26	An Act to amend and consolidate the Laws respecting the Recorders' Court of the City of Quebec.	Section thirty-six.
27, 28 V., c. 19.	An Act to amend and consolidate the Law respecting Accessories to and Abettors of Indictable Offences, and for other purposes relative to the Criminal Law.	The whole.
29 V., c. 13	An Act for abolishing the Punishment of Death in certain cases.	The whole.
29 V., c. 14	An Act to provide more fully for the punishment of offences against the person, in respect to the crime of Kidnapping.	The whole.
29, 30 V., c. 5	An Act to prevent the unlawful training of persons to the use of arms, and to practice military evolutions or exercises; and to authorize Justices of the Peace to seize and detain arms collected or kept for purposes dangerous to the public peace.	The whole.
29, 30 V., c. 121	An Act to incorporate the Canada Vine Growers' Association.	Section Sixteen.

SCHEDULE

SCHEDULE B.—*Continued.*

Consolidated Statutes for Upper Canada.

Reference to Act.	TITLE OF ACT.	Extent of Repeal.
Chapter 13	An Act respecting the Court of Error and Appeal.	So much as is repealed by or inconsistent with the Act of this Session respecting Procedure in Criminal cases, and other matters relating to Criminal law.
Chapter 31	An Act respecting Jurors and Juries.	Sections ninety-nine and one hundred.
Chapter 32	An Act respecting Witnesses and Evidence.	Sections three and four, as to Criminal cases only.
Chapter 97	An Act relating to High Treason, to Tumults and Riotous Assemblies and to other offences.	The whole.
Chapter 99	An Act to prevent the unlawful training of persons in military evolutions and the use of fire-arms: and to authorize the seizure of fire arms collected for purposes dangerous to the public peace.	The whole except section three.
Chapter 100	An Act for the punishment of any persons who seduce soldiers or sailors to desert from Her Majesty's service.	The whole.
Chapter 101	An Act respecting Forgery and Perjury in certain cases.	The whole, except section two.
Chapter 108	An Act respecting prosecutions in cases of Misdemeanor.	Section three.
Chapter 110	An Act to allow to any person indicted a copy of the indictment.	The whole.
Chapter 111	An act respecting amendments at trial.	The whole.
Chapter 113	An Act respecting new trials and appeals, and Writs of Error in criminal cases in Upper Canada.	The whole except sections five, sixteen, and seventeen.

SCHEDULE

SCHEDULE B.—*Continued.*

Reference to Act.	TITLE OF ACT.	Extent of Repeal.
Chapter 115	An Act respecting the punishment of certain offences, and the commuting of sentence of death in certain cases.	The whole.
Chapter 116	An Act respecting corruption of blood.	The whole.
Chapter 124	An Act respecting the return of Convictions and Fines by Justices of the Peace and of Fines levied by Sheriffs.	The whole, except section seven.

Acts passed since the Consolidation of the said Statutes.

29, 30 V., c. 41	An Act to amend the Law of Crown and Criminal Procedure and Evidence at trial in Upper Canada.	The whole, so far as regards criminal procedure only.
29, 30 V., c. 44	An Act respecting Persons in custody charged with High Treason or Felony.	The whole.
29, 30 V., c. 50	An Act to amend the Law respecting Appeals in cases of Summary Convictions, and Returns thereof by Justices of the Peace in Upper Canada.	The whole.

Consolidated Statutes for Lower Canada.

Chapter 12	An Act respecting the Desertion of Soldiers.	The whole.
Chapter 13	An Act respecting Arms and Munitions of War.	The whole.
Chapter 77	An Act respecting the Court of Queen's Bench.	Section sixty-three.
Chapter 84	An Act respecting the selecting and summoning of Jurors.	Section thirty-three.
Chapter 98	An Act respecting Appeals from the decisions of Justices of the Peace in Summary Convictions.	Sections one and two.
Chapter 105	An Act respecting certain matters connected with the Administration of Justice in Criminal Matters.	Sections one, three, four and five.

SCHEDULE

SCHEDULE B.—*Continued.*

ACTS OF THE LEGISLATURE OF THE PROVINCE OF NEW BRUNSWICK.

Revised Statutes—Part IV.

Reference to Act.	TITLE OF ACT.	Extent of Repeal.
Chapter 138	Of Summary Convictions before justices.	The whole, except section twenty-two, which shall apply to the new Summary Convictions Act.
Chapter 147	Of Offences against the Public Peace.	Sections one, two, three, four and five.
Chapter 148	Of Offences against the Administration of Justice.	The whole.
Chapter 149	Of Homicide and other Offences against the Person.	The whole.
Chapter 150	Of Offences against the Habitation.	The whole.
Chapter 151	Of Fraudulent Appropriations.	The whole.
Chapter 152	Of Forgery and Offences relating to the Coin.	The whole.
Chapter 153	Of Malicious Injuries to Property.	The whole, except section sixteen.
Chapter 154	Of other Felonies.	The whole.
Chapter 155	Of the Definition of Terms and Explanations.	The whole.
Chapter 156	Of Proceedings before Indictment.	The whole, except sections seventeen, eighteen, twenty and twenty-two.
Chapter 158	Of Proceedings on Indictment.	The whole, except sections three and twenty-three.
Chapter 159	Of Trial.	The whole, except sections ten, twenty-two, twenty-three, twenty-four, twenty-

SCHEDULE B.—*Continued*

Reference to Act.	TITLE OF ACT.	Extent of Repeal.
		five, twenty-six, and so much of section twenty-seven as respects the appropriation of the fine in cases of common assault.
Chapter 160	Of Error, Punishment and Expenses.	Sections two, three, four, five, six, seven and thirteen.
The Schedules to Part IV.		The whole, except Schedule U.

Acts passed since the Revision of the Statutes.

21 V., (1858) c. 22	An Act in amendment of the Criminal Law.	The whole, except sections three and five.
23 V., (1860) c. 32	An Act relating to Procedure in Criminal Cases.	Sections three and five.
23 V., (1860) c. 33	An Act in amendment of the Law relating to Summary Convictions.	The whole.
23 V., (1860) c. 34	An Act to amend the Law relating to False Pretences.	The whole.
24 V., (1861) c. 10	An Act to prevent the carrying of Deadly Weapons about the Person.	The whole.
25 V., (1862) c. 10	An Act to amend the Law relating to Offences against the Person.	The whole.
25 V., (1862) c. 21	An Act for taking away the Punishment of Death in certain cases, and substituting other Punishments in lieu thereof.	The whole.
27 V., (1864) c. 4	An Act further to amend the Law relating to Offences against the Person.	The whole.
27 V., (1864) c. 6	An Act relating to Larceny and other similar Offences.	The whole.

SCHEDULE

SCHEDULE B.—*Continued.*

Reference to Act	TITLE OF ACT.	Extent of Repeal.
27 V., (1864) c. 8	An Act relating to the issuing of Warrants by Justices of the Peace, and in aid of Police Officers and Constables in the execution of their duties.	Section one.
30 V., (1866) c. 9	An Act respecting Offences relating to the Army and Navy.	The whole.

ACTS OF THE LEGISLATURE OF THE PROVINCE OF NOVA SCOTIA.

Revised Statutes—Third Series—Parts III and IV.

Chapter 136	Of Juries.	Section fifty-one, and section fifty-seven so far as regards criminal cases.
Chapter 156	Of Treason.	The whole.
Chapter 157	Of Offences relating to the Army and Navy.	The whole.
Chapter 159	Of Offences against Religion.	Sections one and three.
Chapter 161	Of Offences against the Law of Marriage.	Sections one and two.
Chapter 162	Of Offences against the Public Peace.	Sections one, two, three and four.
Chapter 163	Of Offences against the Administration of Justice.	The whole.
Chapter 164	Of Offences against the Person.	The whole.
Chapter 166	Of Offences against the Habitation.	The whole.
Chapter 167	Of Fraudulent Appropriations.	The whole.
Chapter 168	Of Forgery and Offences relating to the Coin.	The whole.
Chapter 169	Of Malicious Injuries to Property.	The whole.
Chapter 170	Of the Definition of Terms in this Title.	The whole.
Chapter 171	Of the Administration of Criminal Justice in the Superior Court.	The whole, except sections fifty-nine, sixty, sixty-one, sixty-two, sixty-three, sixty-four, sixty-

SCHEDULE

SCHEDULE B.—*Continued.*

Reference to Act.	TITLE OF ACT.	Extent of Repeal.
		five, sixty six, sixty-seven, seventy-five, eighty-six, eighty-seven, eighty-eight, eighty-nine, ninety, ninety-one,ninety-four, ninety-five, ninety-six, ninety-seven, ninety-eight, ninety-nine, one hundred, one hundred and one, one hundred and two, one hundred and three, and the schedule to the said chapter.
Chapter 172	Of the Duties of Justices of the Peace in Criminal Matters.	The whole.

Acts passed since the Revision of the Statutes.

27 V., (1864) c. 9.	An Act in addition to Chapter 167 of the Bill for revising and Consolidating the General Statutes of Nova Scotia, Of "Offences against the Person."	The whole.
29 V., (1866) c. 19	An Act in addition to and to amend Chapter 169 of the Revised Statutes, "Of Malicious Injuries to Property."	The whole.
29 V., (1866) c. 37	An Act to provide for the seizure of Arms and Munitions of War.	The whole.
29 V., (1866) c. 38	An Act for the better security of the Crown and the Government of Nova Scotia against Treasonable and Seditious Practices and Attempts.	The whole.
30 V., (1867) c. 13	An Act to amend Chapter 157 of the Revised Statutes of Nova Scotia (third series) "Of Offences relating to the Army and Navy."	The whole.

RULES AND REGULATIONS

Made by His Excellency the Governor General in Council, pursuant to the provisions of 32 *and* 33 *Vict., Chap.* 29, *Section* 118, *to be observed on the execution of the judgment of death in every prison, as well as guarding against any abuse in such execution, as also to give greater solemnity to the same, and of making known, without the prison walls, the fact that such execution is taking place.*

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1. For the sake of uniformity it is recommended that executions should take place at the hour of eight o'clock in the forenoon.

2. The mode of execution, and the ceremony attending it, to be the same as heretofore.

3. A black flag to be hoisted at the moment of execution, upon a staff placed upon an elevated and conspicuous part of the prison, and to remain displayed for one hour.

4. The bell of the prison, or, if arrangements can be made for that purpose, the bell of the parish or other neighboring Church, to be tolled for fifteen minutes before, and fifteen minutes after the execution.



33 VICTORIA.

CHAP. 25.

An Act to amend the Act respecting the extradition of certain offenders to the United States of America.

[*Assented to* 12*th May*, 1870.]

Preamble. Act 31 V., c. 94, cited.

IN amendment of the Act passed in the thirty-first year of Her Majesty's reign, intituled "*An Act respecting the treaty between Her Majesty and the United States of America, for the apprehension and surrender of certain offenders*," Her Majesty by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows:—

Part of Sect. 1 repealed.

1. So much of the first section of the said Act as is in the words following, that is to say: "or any Police Magistrate "or Stipendiary Magistrate in Canada, or any Judge of the "Sessions of the Peace in the Province of Quebec, or any In- "spector and Superintendent of Police empowered to act as "a Justice of the Peace in the Province of Quebec,"—shall be and is hereby repealed, except only as respects any proceedings commenced by or before any of the functionaries therein mentioned, before the coming into force of this Act, which may be continued and completed as if this Act had not been passed; but nothing herein contained shall be construed to prevent any person holding any of the said offices from being appointed under the said section to be a Commissioner for the purposes of the said Act.

Proviso.

CHAP.

CHAP. 26.

An Act to amend the Act respecting Perjury.

[*Assented to* 12*th May*, 1870.]

Preamble.

HER Majesty, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows:—

Section 3 of 32 & 33 V., c. 23, amended.

1. The third section of the Act passed in the Session held in the thirty-second and thirty-third years of Her Majesty's reign, chapter twenty-three, intituled "*An Act respecting Perjury*" is hereby so amended as to read as follows:—

As to perjury committed in any Province in Canada, in respect of a document to be used in another.

"3. Any person who wilfully and corruptly makes any false affidavit, affirmation, or declaration, out of the Province in which it is to be used, but within the Dominion of Canada, before any functionary authorized to take the same for the purpose of being used in any Province of Canada, shall be deemed guilty of perjury, in like manner as if such false affidavit, affirmation or declaration had been made in the Province in which it is used, or intended to be used, before a competent authority; and such person may be dealt with, indicted, and tried, and if convicted, may be sentenced, and the offence may be laid and charged to have been committed, in that district, county, or place in which he has been apprehended, or is in custody;"

Effect of amendment.

And the said Act shall be construed and have effect as if the said section had, at the time of the passing of the Act, been worded as hereby amended.

CHAP. 27.

An Act to amend the Act respecting the Duties of Justices of the Peace out of Sessions in relation to Summary Convictions and Orders.

[*Assented to* 12*th May*, 1870.]

Preamble, 32-33 V., c. 31.

WHEREAS, it is expedient to amend Sections sixty-five and seventy-one of the Act respecting the duties of Justices of the Peace out of Sessions in relation to summary convictions and orders; Therefore, Her Majesty, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows:—

New Section in place of Section 65.

1. Section sixty-five of the said Act is hereby repealed, and the following section substituted:

"65.

Appeal given from any conviction or order of a Justice or Justices of the Peace.

"65. Unless it be otherwise provided in any special Act "under which a conviction takes place or an order is made "by a Justice or Justices of the Peace, any person who "thinks himself aggrieved by any such conviction or order, "may appeal in the Province of Quebec or Ontario, to the "next Court of General or Quarter Sessions of the Peace; or "in the Province of Quebec, to any other Court for the time "being discharging the functions of such Court of General "or Quarter Sessions of the Peace in and for any district "therein; in the Province of Nova Scotia, to the Supreme "Court in the county where the cause of the information or "complaint has arisen; and in the Province of New Brunswick, to the County Court of the County where the cause

Conditions of appeal.

"of the information or complaint has arisen: Such right of "appeal shall be subject to the conditions following:—

Time for appeal.

"1. If the conviction or order be made more than twelve "days before the sittings of the court to which the appeal is "given, such appeal shall be made to the then next sittings "of such court; but if the conviction, or order, be made "within twelve days of the sittings of such court then to the "second sittings next after such conviction or order;

Notice to or for prosecution.

"2. The person aggrieved shall give to the prosecutor or "complainant, or to the convicting justice or one of the convicting justices, for him, a notice in writing of such appeal, "within four days after such conviction or order;

Persons so appealing to remain in custody, or give security, or in certain cases to deposit money as security.

"3. The person aggrieved shall either remain in custody "until the holding of the court to which the appeal is given, "or shall enter into a recognizance, with two sufficient "sureties, before a Justice or Justices of the Peace, conditioned personally to appear at the said court, and to try such "appeal, and to abide the judgment of the court thereupon, "and to pay such costs as shall be by the court awarded; "or if the appeal be against any conviction or order, whereby only a penalty or sum of money is adjudged to be paid, "the person aggrieved may, (although the order direct imprisonment in default of payment,) instead of remaining in "custody as aforesaid, or giving such recognizance as aforesaid, deposit with the justice or justices convicting or "making the order such sum of money as such justice or "justices deem sufficient to cover the sum so adjudged to be "paid, together with the costs of the conviction or order, and "the costs of the appeal; and upon such recognizance being "given, or such deposit made, the justice or justices before "whom such recognizance is entered into, or deposit made, "shall liberate such person if in custody;

Court to hear and determine the ap-

"And the court to which such appeal is made shall there- "upon hear and determine the matter of appeal, and make "such

"such order therein, with or without costs to either party, including costs of the court below, as to the court seems meet; and, in case of the dismissal of the appeal or the affirmance of the conviction or order, shall order and adjudge the offender to be punished according to the conviction, or the defendant to pay the amount adjudged by the said order, and to pay such costs as may be awarded; and shall, if necessary, issue process for enforcing the judgment of the court; and in any case where, after any such deposit has been made as aforesaid, the conviction or order is affirmed, the court may order the sum thereby adjudged to be paid, together with the costs of the conviction or order, and the costs of the appeal, to be paid out of the money deposited, and the residue, if any, to be repaid to the defendant; and in any case where, after any such deposit, the conviction or order is quashed, the court shall order the money to be repaid to the defendant; and the said court shall have power, if necessary, from time to time, by order endorsed on the conviction or order, to adjourn the hearing of the appeal from one sittings to another, or others, of the said court;

peal, if the conviction or order is affirmed.

If quashed.

Power to adjourn proceedings.

"In every case where any conviction or order is quashed on appeal as aforesaid, the Clerk of the Peace or other proper officer shall forthwith endorse on the conviction or order a memorandum that the same has been quashed; and whenever any copy or certificate of such conviction or order is made, a copy of such memorandum shall be added thereto, and shall, when certified under the hand of the Clerk of the Peace, or of the proper officer having the custody of the same, be sufficient evidence in all courts and for all purposes, that the conviction or order has been quashed."

Memorandum of quashing to be made. Its effect.

2. Section seventy-one of the said Act is repealed, and the following substituted therefor:—

Section 71 repealed.

"71. No conviction or order affirmed, or affirmed and amended in appeal, shall be quashed for want of form, or be removed by certiorari into any of Her Majesty's Superior Courts of Record; and no warrant or commitment shall be held void by reason of any defect therein, provided it be therein alleged that the party has been convicted, and there be a good and valid conviction to sustain the same.

No conviction approved may be removed by certiorari, &c.

3. And whereas, in some of the Provinces of Canada, the terms or sittings of the General Sessions of the Peace or other courts to which, under section seventy-six of the said Act, Justices of the Peace are required to make returns of convictions had before them, may not be held as often as once in every

Recital.

At what times and to whom the returns required by S. 76 shall be made.

every three months; and it is desirable that such returns should not be made less frequently: Therefore it is further enacted, that the returns required by the said seventy-sixth section of the Act hereinbefore cited shall be made by every Justice of the Peace quarterly, on or before the second Tuesday in each of the months of March, June, September and December in each year, to the Clerk of the Peace or other proper officer for receiving the same under the said Act, notwithstanding the General or Quarter Sessions of the Peace of the county in which such conviction was had may not be held in the months or at the times aforesaid; and every such return shall include all convictions and other matters mentioned in the said section seventy-six, and not included in some previous return, and shall, by the Clerk of the Peace or other proper officer receiving it, be fixed up and published, and a copy thereof shall be transmitted to the Minister of Finance, in the manner required by the eightieth and eighty-first sections of the said Act; and the provisions of the seventy-eighth section of the said Act, and the penalties thereby imposed, and all the other provisions of the said Act, shall hereafter apply to the returns hereby required, and to any offence or neglect committed with respect to the making thereof, as if the periods hereby appointed for making the said returns had been mentioned in the said Act instead of the periods thereby appointed for the same.

What cases any such return shall include: how posted up and published, &c.

Copy to Minister of Finance.

Provisions of S. 78 to apply.

New form of notice of appeal.

4. The form following shall be substituted for the form of Notice of Appeal against a conviction or order contained in the schedule to the said Act.

GENERAL FORM OF NOTICE OF APPEAL AGAINST A CONVICTION OR ORDER.

To C. D. of, &c., *and*———(*the names and additions of the parties to whom the notice of appeal is required to be given*).

Take notice, that I, the undersigned A. B., of do intend to enter and prosecute an appeal at the next General Quarter Sessions of the Peace (*or other Court, as the case may be*), to be holden at , in and for the District (*or* County, United Counties, *or as the case may be*) of against a certain conviction (*or* order) bearing date on or about the day of instant, and made by (you) C. D., Esquire, (one) of Her Majesty's Justices of the Peace for the said District (*or* County, United Counties, *or as the case may be*) of , whereby the said A. B. was convicted of having (*or* was ordered to pay , *here state the offence as in the conviction, information, or summons, or the amount adjudged to be paid, as in the order, as correctly as possible.*)

Dated

Dated this day of , one thousand eight hundred and .

A. B.

MEMORANDUM.—*If this notice be given by several defendants or by an Attorney, it can easily be adapted.*

CHAP. 28.

An Act to amend an Act for the better preservation of the peace in the vicinity of Public Works.

[*Assented to 12th May*, 1870.]

Preamble.

HER MAJESTY, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows:—

Sections of 32 and 33 V., c. 24, may be put into force by Proclamation separately.

1. For and notwithstanding anything to the contrary contained in an Act of the Parliament of Canada, made and passed in the Session thereof, held in the thirty-second and thirty-third years of Her Majesty's reign, intituled: "*An Act for the better preservation of the peace in the vicinity of public works*," the Governor in Council may, as often as occasion requires, declare by Proclamation that upon and after a day therein named, the said Act or any section or sections thereof, shall be in force in any place or places in Canada, therein designated, within the limits or in the vicinity whereof any railway, canal, or other public work is in progress of construction, or such places as are in the vicinity of any railway, canal or other public work, as aforesaid, within which he deems it necessary that the said Act, or any section or sections thereof, should be in force.

And may be declared to be no longer in force.

And the said Act, or any such section or sections thereof, shall upon and after a day to be named in any such proclamation, take effect within the places designated in such proclamation; and the Governor in Council may in like manner from time to time declare the said Act or any section or sections thereof to be no longer in force in any of such place or places, and may again from time to time declare the said Act, or any section or sections thereof, to be in force therein; but no such proclamation shall have effect within the limits of any city.

Exceptions as to cities.

Meaning of "this Act" in 32 and 33 V., c. 24.

2. Wherever the expression "this Act" occurs in the Act hereinbefore mentioned it shall be understood to mean such section or sections thereof as shall be in force by virtue of any such proclamation as aforesaid, in the place or places with

with reference to which the said Act is to be construed and applied, except only in the last section of the said Act, in which it shall be understood to mean the whole Act.

CHAP. 29.

An Act to amend "An Act respecting Cruelty to Animals."

[*Assented to* 12*th May*, 1870.]

Preamble. HER MAJESTY, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows:—

Addition to s. 1 of 32 & 33 V., c 27.

1. The following words shall be added to, and be taken and read as, and form part of the first section of the Act made and passed in the Session held in the thirty-second and thirty-third years of Her Majesty's reign, chapter twenty-seven, intituled "*An Act respecting Cruelty to Animals*," that is to say:—

Penalty for encouraging bull baiting, cock fighting, &c., &c.

"And any person who, in any manner, encourages, aids, or assists at the fighting or baiting of any bull, bear, badger, dog, cock, or other kind of animal, whether of domestic or wild nature, shall, upon being convicted before any one Justice of the Peace for the district, county, or place, in which the offence was committed, for every such offence forfeit and pay such a sum of money not exceeding forty dollars, nor less than two dollars, with costs, as to such justice seems meet."

CHAP. 30.

An Act to amend "The Penitentiary Act of 1868."

[*Assented to* 12*th May*, 1870.]

Preamble. HER MAJESTY, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows:—

S. 34 of 31 V., c. 75, amended.

1. The words "and to employ an architect for the penitentiary," in the eighth line of the thirty-fourth section of "*The Penitentiary Act of* 1868," are hereby repealed, and the following words shall be taken and read in lieu thereof in the said thirty-fourth section, that is to say;—"And to employ an architect for the penitentiaries"

2.

2. The thirty-fifth section of the said Act is hereby repealed, and the following section substituted therefor, and to be taken and read as the thirty-fifth section of the said Act :— S. 35 of 31 V., c. 75, amended.

"It shall be lawful for the directors to appoint for any penitentiary a schoolmaster, a schoolmistress, a storekeeper, a steward, a chief-keeper (who in the absence or incapacity of the deputy warden, shall exercise all the functions of the said deputy warden), a matron, a deputy matron, and such or so many trade inspectors as may, from time to time, be required, to hold their offices during pleasure; but the warden shall have power to suspend summarily, for misconduct, any of the officers named in this section, until the next meeting of the directors, when he shall submit to them a report of the circumstances of the case, to be dealt with as to them may seem meet."

3. The thirty-sixth section of the said Act is hereby repealed, and the following section substituted therefor, and to be taken and read as the thirty-sixth section of the said Act:— S. 36 of 31 V., c. 75, amended.

"It shall be lawful for the warden to appoint for any penitentiary an assistant deputy matron and a clerk, and such and so many keepers and guards or other servants as, by order of the directors, may be authorized, for the proper protection and care of the institution, and to suspend any of them for neglect of duty for such time as he shall see fit, or dismiss them without further charge than that of inefficiency in his opinion, but such suspension or dismissal shall be reported to the directors at their next meeting."

4. The forty-eighth section of the said Act is hereby repealed and the following section substituted therefor, and to be taken and read as the forty-eighth section of the said Act :— S. 48 of 31 V., c. 75, amended.

"Every warden, every accountant, every store-keeper, and every steward, and every other person or persons employed in the penitentiaries, as may thereunto be required by the Governor in Council, shall severally execute bonds to Her Majesty, with sufficient sureties, in such sum or sums of money respectively, as may be, from time to time, determined by the Governor in Council, which bonds shall be conditioned for the faithful performance of the duties of their respective offices, according to law, and shall be filed in the office of the Secretary of State of Canada."

5. For and notwithstanding anything to the contrary contained in an Act made and passed by the Parliament of Canada, in the session held in the thirty-second and thirty-third years of Her Majesty's reign, chaptered twenty-nine, and intituled: "*An Act* As to persons in Nova Scotia or New Brunswick sentenced to imprison-

ment after 1st May, 1873, and 1st May, 1874, respectively.

Act respecting Procedure in Criminal Cases, and other matters relating to Criminal Law," or in any other Act of the Parliament of Canada, no person sentenced in New Brunswick or Nova Scotia to imprisonment with hard labor for less than one year, shall be received or imprisoned in the penitentiary from and after the first day of May, which will be in the year one thousand eight hundred and seventy-three; nor after the first day of May which will be in the year one thousand eight hundred and seventy-four, shall any one sentenced in either of the said Provinces to imprisonment with hard labor for less than two years, be received or imprisoned in the penitentiary.

CHAP. 31.

An Act for the better protection of the Clothing and Property of Seamen in Her Majesty's Navy.

[*Assented to 12th May*, 1870.]

Preamble.

WHEREAS the clothing and property of soldiers in Her Majesty's Army are protected by the restraint of the sale thereof, and it is expedient to make the like provision with respect to the clothing and property of seamen in Her Majesty's Navy; Therefore, Her Majesty, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows:—

Short title.

1. This Act may be cited as "The Queen's Seaman's Clothing Act, 1870."

Interpretation of terms used in this Act.

2. In this Act—

The term "Admiralty" means the Lord High Admiral of the United Kingdom, or the Commissioners for executing the office of Lord High Admiral;

The term "Seaman" means every person not being a commissioned, warrant, or subordinate officer, who is in or belongs to Her Majesty's Navy, and is borne on the books of any one of Her Majesty's ships in commission, and every person, not being an officer as aforesaid, who, being borne on the books of any hired vessel in Her Majesty's service, is by virtue of any Act of the Parliament of the United Kingdom for the time being in force for the discipline of the Navy, subject to the provisions of such Act;

The

The term "Seaman's property" means any clothes, slops, medals, and necessaries, or articles usually deemed to be necessaries, for sailors on board ship, which belong to any Seaman.

Penalty on seller or purchaser of Seaman's Clothing.

. If any person detains, buys, exchanges, takes on pawn, or receives from any seaman, or any person acting for a seaman, any seaman's property, or solicits or entices any seaman, or is employed by any seaman, to sell, exchange or pawn any seaman's property, he shall, unless he proves that he acted in ignorance of the same being seaman's property, or of the person with whom he dealt being or acting for a seaman, or that the same was sold by order of the Admiralty or Commander in Chief, be liable, on summary conviction, to a penalty not exceeding one hundred dollars; and if convicted of a second offence, to the same penalty, or, in the discretion of the justice or justices, to be imprisoned for a term not exceeding six months, with or without hard labor

Penalty on dealer, &c., found in possession of Seaman's property and not accounting for it.

4. If any seaman's property is found in the possession or keeping of any person, and he is taken or summoned before a Justice of the Peace (which taking and summoning are hereby authorized), and the justice sees reasonable grounds for believing the property so found to have been stolen, or to have been detained, bought, exchanged, pawned, or otherwise received, contrary to the provisions of this Act, then if such person does not satisfy the justice that he came by the seaman's property so found lawfully and without any contravention of this Act, he shall be liable, on summary conviction before a justice or justices, to a penalty not exceeding twenty-five dollars; and for the purposes of this section, seaman's property shall be deemed to be in the possession or keeping of any person, if he knowingly has any such property in the actual possession or keeping of any other person, or in any house, building, lodging, apartment, field or place, open or enclosed, whether occupied by himself or not, and whether the same are so had for his own use or benefit, or for the use or benefit of another.

Certain parts of 32 and 33 V., c. 21, incorporated with this Act.

5. The following sections of the Act of the Parliament of Canada passed in the session thereof held in the thirty-second and thirty-third years of Her Majesty's reign, Chapter twenty-one, "*respecting Larceny and other similar offences*," are hereby incorporated with this Act, and shall for the purposes of this Act be read as if they were herein enacted, and as if the term "this Act" in those sections included the present Act; namely, section one hundred and eight (relating to the punishment of abettors) and sections one hundred and seventeen, one hundred and eighteen, one hundred and nineteen, and

and one hundred and twenty (relating to the apprehension of offenders, and other proceedings.)

Offences may be prosecuted under 32 and 33 V., c. 31, and its provisions shall be applicable to such prosecutions.

6. Every offence hereby made punishable on summary conviction may be prosecuted in the manner directed by the Act of the Parliament of Canada passed in the Session thereof held in the thirty-second and thirty-third years of Her Majesty's reign, chapter thirty-one, "*respecting the duties of Justices of the Peace out of Sessions, in relation to summary convictions and orders,*" so far as no other provision is hereby made for any matter or thing which may be required to be done in the course of such prosecution; and all provisions contained in the said Act shall be applicable to such prosecutions in the same manner as if they were incorporated in this Act.

Act not to prevent indictment, &c., under any other Act.

7. Nothing in this Act shall prevent any person from being indicted under this Act, or otherwise, for any indictable offence made punishable on summary conviction by this Act, or prevent any person from being liable, under any other Act, or otherwise, to any other or higher penalty or punishment than is provided for any offence by this Act, so that no person be punished twice for the same offence.

CHAP. 32.

An Act to empower the Police Court in the City of Halifax to sentence juvenile offenders to be detained in the Halifax Industrial School.

[*Assented to* 12*th May*, 1870.]

Preamble.

WHEREAS, in and by an Act passed in the twenty-eighth year of Her Majesty's reign, chapter fifty-one of the Acts of the Legislature of the Province of Nova Scotia, intituled: "*An Act to incorporate the Halifax Industrial School,*" after therein reciting that a number of persons had associated themselves together for the purpose of assisting and educating poor and friendless boys, and had purchased a house and premises as a home for such boys, such persons were, for the purpose of holding such real estate, and managing their affairs generally with greater ease, thereby constituted a body politic and corporate;

And whereas, for the further promotion of the benevolent design of such Society, it is desirable to authorize and empower the Police Court in the City of Halifax to sentence certain

certain juvenile offenders to be detained in the said Industrial School;

Therefore, Her Majesty, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows:—

Protestant boys under sixteen years of age may be sentenced to detention in the Halifax Industrial School.

1. Whenever any boy, being a Protestant and a minor, apparently under the age of sixteen years, shall be convicted before the Police Court in the City of Halifax, or before the Stipendiary Magistrate for the City of Halifax, of any offence for which, by law, he would be liable to imprisonment, the Police Court or Stipendiary Magistrate may sentence such boy to be detained in the said Industrial School for any period not exceeding five years, nor less than two years, as to the said Police Court or Stipendiary Magistrate shall appear proper.

Provision to be made by the city for the support of such boys.

2. But no such sentence shall be pronounced unless, nor until, provision has been made by the City of Halifax, out of its funds, for the support of boys so sentenced, at the rate of not less than forty dollars per annum for each boy.

Industrial School to be open to inspection.

3. The home and premises of the said Industrial School shall, at all times, be open to inspection by the Mayor and Aldermen of the City of Halifax, and the Stipendiary Magistrate for the City of Halifax, or any of them.

Committee of School to educate the boys and teach them trades.

4. The committee of the said Industrial School shall be bound to teach and instruct each boy so sentenced and detained as aforesaid, in reading and writing, and in arithmetic as far as the rule of three, and also to teach each such boy such one of the trades or occupations which may, from time to time, be taught in said school, as the committee judge most adapted to his capabilities.

Boy escaping to be remanded to the school, with further detention: escaping again, to be committed to city prison.

5. In case any boy so sentenced and detained as aforesaid escapes from the said Industrial School, he may, at any time before the expiration of his period of detention, be apprehended without warrant, and brought before the said Police Court or Stipendiary Magistrate, and on proof of his identity, the said Police Court or Stipendiary Magistrate shall, if it is the first time he has so escaped, remand him to the said school, there to serve the remainder of his original sentence, with such additional term, not exceeding one year, as to the said Police Court or Stipendiary Magistrate mayappear proper; and if it is the second time he has so escaped, commit him to the city prison, there to remain until the expiration of the period for which he was remanded to the said Industrial School after his first escape.

CHAP.



34 VICTORIA.

CHAP. 11.

An Act for the prevention of corrupt practices in relation to the Collection of the Revenue.

[*Assented to* 14*th April*, 1871.]

Preamble.

WHEREAS it is expedient to make more stringent enactments in relation to the criminal liability of public officers and other persons guilty of corrupt practices in relation to the collection and management of the revenue; therefore, Her Majesty, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows:—

S. 45 of 31 V., c. 5, repealed. How that Act and this shall be construed.

1. Section forty-five of the Act passed in the thirty-first year of Her Majesty's reign, chapter five, intituled "*An Act respecting the collection and management of the revenue, the auditing of public accounts, and the liability of public accountants*," is repealed, and the Act cited shall, from the date of the passing of this Act, be construed as if the sections hereinafter contained formed part thereof, and all the provisions of the said Act shall apply to this Act, which shall be read and construed hereafter as forming but one and the same Act therewith.

Punishment of officers, &c., of the Revenue receiving bribes, &c., &c.

2. Any officer, or any person acting in any office or employment, connected with the collection or management of the revenue who—

1. Shall receive any compensation or reward for the performance of any official duty, except as by law prescribed; or

2. Shall conspire or collude with any other person to defraud the Crown, or shall make opportunity for any person to defraud the Crown; or

3. Shall designedly permit any violation of the law by any other person; or

4. Shall wilfully make or sign any false entry in any book, or wilfully make or sign any false certificate or return in any case, in which he is by law or regulation required to make any entry, certificate or return; or

5. Having knowledge or information of the violation of any revenue law by any person, or of fraud committed by any person against the Crown, under any revenue law of Canada, shall fail to report, in writing, such knowledge or information to his next superior officer; or

6. Shall demand or accept, or attempt to collect, directly or indirectly, as payment, or gift, or otherwise, any sum of money, or other thing of value, for the compromise, adjustment, or settlement of any charge or complaint for any violation, or alleged violation of law, except as expressly authorized by law, or by the authority of the department of which he is an officer, to do,—

Shall be dismissed from office, and shall be held to be guilty of a misdemeanor, and shall, on conviction, be liable to a fine not exceeding five hundred dollars, and to imprisonment for any term not exceeding one year. Dismissal, fine, and imprisonment.

3. If any person, directly or indirectly, promises, offers, or gives, or causes or procures to be promised, offered, or given, any money, goods, right in action, bribe, present, or reward, or any promise, contract, undertaking, obligation or security for the payment or delivery of any money, goods, right in action, bribe, present, or reward, or any other valuable thing whatever, to any officer, or any person acting in any office or employment connected with the collection or management of the revenue, with intent— Punishment of persons offering such bribes, &c.

1. To influence his decision or action on any question or matter which may then be pending, or may by law be brought before him in his official capacity; or

2. To influence such officer or person to commit, or aid or abet in committing any fraud on the revenue, or to connive at, collude in, or allow or permit any opportunity for the commission of any such fraud,—

Such person, and any officer or person, who shall in anywise accept or receive any such moneys, goods, right in action, bribe, present, or reward, or any promise, contract, undertaking, obligation, or security for the payment or delivery thereof, or any other valuable thing whatever, or any part of the same respectively, shall be guilty of misdemeanor, and be liable, on conviction, to a fine not exceeding three times the amount so offered or accepted, and to imprisonment for any term not exceeding one year; and any officer or person convicted under this section shall forfeit his office or place; and any person convicted under this section shall be for ever disqualified to hold any office of trust, honor or profit, under the Crown. Or officers receiving the same. Fine, imprisonment, dismissal, disqualification.

4. Any officer, or any person acting in any office or employment connected with the collection of the revenue, who becomes directly or indirectly, interested in the manufacture or production of any article subject to excise, or who trades in Penalty on officers becoming concerned in manufacture,

&c., of articles, subject to excise.

in any article subject to excise duties, shall incur a penalty not exceeding five hundred dollars nor less than fifty dollars, which shall be recoverable in any court having jurisdiction in civil cases, to the amount thereof; and any such officer or person interested in any such manufacture at the time this Act takes effect, who fails to divest himself of such interest within sixty days thereafter, shall be held to have become so interested after this Act takes effect.

CHAP. 14.

An Act to extend to the Province of Manitoba certain of the Criminal Laws now in force in the other Provinces of the Dominion.

[*Assented to* 14*th April*, 1871.]

Preamble.

HER Majesty, by and with the consent of the Senate and House of Commons of Canada, enacts as follows:—

Certain Acts of Canada to be in force in Manitoba.

1. The following Statutes of the Parliament of Canada, passed in the session held in the thirty-second and thirty-third years of the reign of Her Most Gracious Majesty, are and each of them is hereby extended to, and shall henceforth have the force and effect of law within the Province of Manitoba, save and except in so far only as any provision of the said Statutes may therein be declared to be applicable to another Province only, that is to say:—

Chapter eighteen, intituled "*An Act respecting offences relating to the Coin.*"

Chapter nineteen, intituled "*An Act respecting Forgery.*"

Chapter twenty, intituled "*An Act respecting offences against the Person.*"

Chapter twenty-one, intituled "*An Act respecting Larceny and other similar offences.*"

Chapter twenty-two, intituled "*An Act respecting Malicious injuries to property.*"

Chapter twenty-three, intituled, "*An Act respecting Perjury*," as amended by the Act thirty-three Victoria, Chapter twenty-six.

Chapter twenty-four, intituled "*An Act for the better preservation of the public peace, in the vicinity of Public Works*," as amended by Act thirty-three Victoria, Chapter twenty-eight.

Chapter

Chapter twenty-five, intituled "*An Act respecting certain Offences relative to Her Majesty's Army and Navy.*"

Chapter twenty-six, intituled "*An Act for the better preservation of Her Majesty's Military and Naval Stores.*"

Chapter twenty-seven, intituled "*An Act respecting Cruelty to Animals,*" as amended by the Act thirty-three Victoria, Chapter twenty-nine.

Chapter twenty-eight, intituled "*An Act respecting Vagrants.*"

Chapter twenty-nine, intituled, "*An Act respecting Procedure in Criminal Cases, and other matters relating to Criminal Law.*"

Chapter thirty, intituled "*An Act respecting the duties of Justices of the Peace out of Sessions, in relation to persons charged with indictable offences.*"

What Court shall try certain offences.

2. The court known as the General Court now and heretofore existing in the Province of Manitoba, and any court to be hereafter constituted by the Legislature of the said Province, and having the powers now exercised by the said General Court, shall have power to hear, try and determine in due course of law all treasons, felonies and indictable offences committed in any part of the said Province, or in the territory which has now become the said Province.

If the accused demands a jury half French or half English.

3. Whenever any prosecuted party upon being arraigned before the said General Court, or before such court as may hereafter be constituted by the Legislature of Manitoba to supersede the said General Court, demands a jury, composed for the one half at least of persons skilled in the language of the defence, if such language be either English or French, he shall be tried by a jury composed for the one half at least of the persons whose names stand first in succession upon the general panel, and who, on appearing, and not being lawfully challenged, are found, in the judgment of the court to be skilled in the language of the defence.

If the panel be exhausted in such case.

4. Whenever from the number of challenges, or any other cause, there is in any such case, a deficiency of persons skilled in the language of the defence, the court shall fix another day for the trial of such case, and the sheriff shall supply the deficiency by summoning for the day so fixed such additional number of jurors skilled in the language of the defence as the court may order, and as are found inscribed next in succession on the list of petty jurors.

As to peremptory challenges in such case.

5. Whenever a person accused of treason or felony elects to be tried by a jury composed one-half of persons skilled in the language of the defence, the number of peremptory challenges to which he is entitled shall be divided, so that he shall only have the right to challenge one-half of such number from among the English speaking jurors, and one-half from among the French speaking jurors.

Inconsistent laws repealed.

6. All provisions of law heretofore in force in the country now constituting the Province of Manitoba, inconsistent with, or repugnant to the provisions of this Act, or inconsistent with or repugnant to any of the Statutes enumerated in the first section of this Act, are hereby repealed: Provided always that no person shall, by reason of the passing of this Act, be liable to any punishment or penalty for any act done before the passing thereof, for which he would not have been liable to any punishment or penalty under the laws in force in the said Province or the territory now constituting it at the time such act was done, nor shall any person by reason of the passing of this Act be liable to any greater or other punishment for any offence committed before the passing thereof, than he would have been liable to under the laws then in force as aforesaid; and this Act and the Acts hereby extended to the said Province shall apply only to the procedure in any such case, and the penalty or punishment shall be the same as if this Act had not been passed.

Proviso as to offences committed before the passing of this Act.

What prison may be used as a penitentiary.

7. In the absence of any penitentiary building, any common gaol or other place of confinement in the Province of Manitoba, shall be held to be a penitentiary for the confinement and reformation of persons, male and female, lawfully convicted of crime before the Courts of Manitoba, and sentenced to confinement for life or for a term of not less than two years; and whenever any offender is punishable by imprisonment, such imprisonment, whether it be for life or two years, or for any longer term, shall be in any such common gaol, or other place of confinement, according to the judgment of the court.

CHAP.

CHAP. 30.

An Act to make provision for the detention of female convicts in Reformatory Prisons in the Province of Quebec; and for other purposes relating to prisons in that Province.

[*Assented to* 14*th April*, 1871.]

Preamble.

WHEREAS, it appears that the Government of the Province of Quebec has made arrangements for the establishment of Reformatory Prisons for female convicts either in separate buildings, or in separate portions of the common gaols for the districts of Montreal and Quebec respectively, and it is expedient to authorize the detention of female convicts therein, in the cases hereinafter mentioned: Therefore, Her Majesty, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows:

When Reformatory Prisons are established in the Province, certain female convicts may be sentenced to be detained therein.

1. Whenever, after the coming into force of this Act, the Lieutenant Governor of the Province of Quebec shall have declared by Proclamation in the Official Gazette of that Province, that suitable arrangements have been made in any district in that Province, for the detention and proper government and discipline of female convicts in any separate building or separate portion of the common gaol in such district as a reformatory prison for such convicts, and that such separate building or portion of a common gaol shall be a reformatory prison for the purposes of this Act,—then whenever any female person shall thereafter be convicted in the said Province of any felony not capital, and for which she would, without this Act, be punishable by imprisonment for any term not less than two years but not exceeding seven years, then such female convict shall be punishable by imprisonment in the female reformatory prison for any term less than seven, but not less than five years, and she may be sentenced to such imprisonment accordingly, although without this Act she might not be liable to imprisonment in the penitentiary for so long a term as that for which she may be so sentenced to imprisonment in the female reformatory prison.

And certain others after two convictions or by their own consent. 32, 33 V., c. 28.

2. And if after such Proclamation as aforesaid, any female person shall be convicted of any felony or misdemeanor punishable without this Act, by imprisonment, but not for any term so long as two years, or of any offence against the Act passed in the session held in the thirty-second and thirty-third years of Her Majesty's reign, and intituled "*An Act respecting Vagrants*," then, unless it be proved that she has been previously convicted and imprisoned twice or oftener (each

of

of such convictions being for some such felony, misdemeanor or offence, as aforesaid) such convict shall be asked, by the judge, Recorder, Judge of a County Court, Judge of the Sessions of the Peace, Commissioner of Police, District or Police or Stipendiary Magistrate, mayor, warden, or the two Justices of the Peace, or other functionary before whom the conviction shall be had, whether she consents, instead of the imprisonment to which she may be otherwise liable, to be sentenced to imprisonment for a term of five years, in the female reformatory prison; if she refuses to give such consent, sentence shall be passed upon her as if this Act had not been passed, but if she gives such consent, or it be proved that she has been twice convicted as aforesaid, the fact shall be duly recorded or entered on the proceedings in the case, and she shall be sentenced accordingly to imprisonment in the female reformatory prison for a term of five years.

Every such sentence to include hard labor; and in what prison to be carried out.

3. Every sentence to imprisonment in the female reformatory prison, shall include hard labour, whether it be or be not mentioned in the sentence; and if at the time of the passing of any such sentence, there be more than one female reformatory prison in the said Province of Quebec, then the imprisonment under such sentence shall be in that one of such reformatory prisons which shall be in the same district as the place at which the sentence is passed, or if there is no reformatory prison in such district, then in the reformatory prison nearest to such place; but if there be not more than one such reformatory prison in the Province, then such imprisonment shall be in it; and in any case the sheriff of the district in which the sentence is passed, or any person thereunto by him deputed, shall have the like powers for conveying the convict to the reformatory prison in which she is to be imprisoned, as any sheriff has to convey any convict to the penitentiary.

Power to convey prisoner to it.

Every such Prison to be a House of Correction, &c., under B. N. A. Act.

4. Each such female reformatory prison as aforesaid shall be a house of correction and public reformatory prison, within the meaning of the sixth sub-section of the ninety-second section of "*The British North America Act*, 1867," and subject to such laws as the Legislature of the Province of Quebec may make with respect to the establishment, maintenance and management thereof.

Convicts in common gaols may be employed outside the same.

5. And whereas it may be found expedient in the Province of Quebec, to employ convicts sentenced to hard labour, being males, out of the walls or precincts of the prison in which they may have been sentenced to be confined; therefore, it is hereby provided and enacted, that it shall be lawful for any sheriff or gaoler in the said Province being thereunto authorized by the Lieutenant Governor thereof, or in such manner

manner as any Act of the Legislature of the Province may provide, and under such regulations as the said Legislature may make or authorize to be made in that behalf, to employ any male convicts sentenced to hard labour in such prison, at hard labour outside the walls or precincts of such prison, and to exercise the same powers of restraint and discipline, and for preventing escape, while they are so outside of the said walls or precincts, as if they were inside the same, and whether their labour be so employed directly by the Government of the said Province, or by any contractor to whom such labour shall have been let or hired out by the said Government or by any competent authority; and the sentence of any such male convict, whether pronounced before or after the passing of this Act, shall be understood to include such employment as aforesaid, and any time during which a convict shall be so employed, shall be reckoned as part of the term for which he was sentenced to be confined in such prison.

Powers for preventing escapes, &c.

6. Every common gaol in the Province of Quebec, shall be (and shall be held to have been) a House of Correction, reformatory prison, and place of detention.

All Gaols in the Province to be Houses of Correction.

7. This Act shall come into force and take effect upon, from and after the first day of January, in the year one thousand eight hundred and seventy-two.

Commencement of Act.

CHAP. 32.

An Act for more effectually preventing the desertion of Seamen in the Port of Quebec.

[*Assented to* 14*th April*, 1871.]

Preamble.

IN order to provide more effectually for the prevention of the desertion of Seamen in the Port of Quebec: Her Majesty, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows:—

Imprisonment for offences against Con. Stat. Can., c. 43.

1. Any person convicted of any offence under either the first or the second section of the Act forming chapter forty-three of the Consolidated Statutes of Canada, entitled: "*An Act for more effectually preventing the desertion of Seamen*," may be imprisoned with or without hard labor for any period not exceeding six months nor less than three months in

in lieu of any penalty incurred by such offence under such section.

Penalty under s. 3 of that Act,

2. The penalty and imprisonment mentioned in the third section of the said Act shall be incurred by any person found loitering near any vessel in the port of Quebec, and not giving a satisfactory account of his business there, whether such person be or be not at the time in a boat or other water craft.

And for offences under s. 5.

3. Any person convicted of any offence under the fifth section of the above mentioned Act, may be imprisoned with or without hard labor for any period not exceeding sixty days nor less than thirty days, in lieu of any penalty incurred by such offence under such section.



35 VICTORIA.

CHAP. 31.

An Act to amend the Criminal Law relating to Violence, Threats and Molestation.

[*Assented to* 14*th June*, 1872.]

Preamble.

HER MAJESTY, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows :—

Persons doing certain things are—

1. Every person who does one or more of the following acts, that is to say :—

1. Uses violence to any person or any property,—

2. Threatens or intimidates any person in such manner as would justify a Justice of the Peace, on complaint made to him, to bind over the person so threatening or intimidating to keep the peace,—

3. Molests or obstructs any person in manner defined by this section,—

With a view to coerce such person,—

(*a*) Being a master, to dismiss or cease to employ any workman, or being a workman, to quit any employment, or to return work before it is finished ;

(*b*)

(*b*) Being a master, not to offer, or being a workman, not to accept any employment or work;

(*c*) Being a master or workman to belong to, or not to belong to, any temporary or permanent association or combination;

(*d*) Being a master or workman, to pay any fine or penalty imposed by any temporary or permanent association or combination;

(*e*) Being a master, to alter the mode of carrying on his business, or the number or description of any persons employed by him,—

Guilty of offence against this Act and punishable.

Shall be guilty of an offence against this Act, and shall be liable to imprisonment, with or without hard labor, for a term not exceeding three months.

Definitions, "molesting," and "obstructing."

4. A person shall, for the purposes of this Act, be deemed to molest or obstruct another person in any of the following cases; that is to say,—

(*a*) If he persistently follows such other person about from place to place;

(*b*) If he hides any tools, clothes or other property owned or used by such other person, or deprives him of, or hinders him in the use thereof;

(*c*) If he watches or besets the house or place where such other person resides or works or carries on business, or happens to be, or the approach to such house or place, or if with two or more other persons he follows such other person in a disorderly manner in or through any street or road.

Not to prevent liability for greater offence; but party offending not liable twice for same offence.

5. Nothing in this section shall prevent any person from being liable under any other Act, or otherwise, to any other or greater punishment than is provided for any offence by this section, but so that no person shall be punished twice for the same offence: Provided that no person shall be liable to any punishment for doing or conspiring to do any act, on the ground that such act restrains or tends to restrain the free course of trade, unless such act is one of the acts hereinbefore specified in this section, and is done with the object of coercing as hereinbefore mentioned.

LEGAL PROCEEDINGS.

How prosecutions shall be brought.

2. All offences under this Act, shall be prosecuted under the provisions of the Act passed in the session held in the thirty-second

thirty-second and thirty-third years of Her Majesty's reign, and intituled "*An Act respecting the duties of Justices of the Peace out of Sessions, in relation to summary convictions and orders,*" as amended by the Act passed in the thirty-third year of Her Majesty's reign, and intituled "*An Act to amend the "Act respecting the duties of Justices of the Peace out of Ses- "sions in relation to summary convictions and orders,*" and any Act passed in the present session amending the same; provided that the complaint or information, in any such case, shall be brought, heard and determined before a Stipendiary or Police Magistrate, or some other functionary having, under the said Acts, the powers of two Justices of the Peace, if the offence be committed in any city, town or place in which any such magistrate or functionary has jurisdiction; and if the offence be committed elsewhere, then before two Justices of the Peace: Provided that the description of any offence under this Act in the words of this Act, shall be sufficient in law; and that any exception, proviso, excuse or qualification, whether it does or does not accompany the description of the offence in this Act, may be proved by the defendant, but need not be specified in the information or complaint, and if so specified and negatived, no proof in relation to the matter so specified and negatived shall be required on the part of the informant or prosecutor.

32, 33 V., c. 31. 33 V., c. 27.

Proviso; if there be a police magistrate, &c.

Proviso, as to description of offence: Exceptions, &c.

3. If any party feels aggrieved by any summary conviction or order under this Act, such party may appeal therefrom in the manner and subject to the conditions provided in the Acts mentioned in the next preceding section, in cases in which an appeal is allowed by the said Acts.

Appeal.

4. No person who is a master, or the father, son or brother of a master in the particular manufacture, trade or business, in or in connection with which any offence under this Act is charged to have been committed, shall act as a magistrate or Justice of the Peace, in any case of complaint or information under this Act, or as a member of any court for hearing any appeal in any such case.

Certain parties not to act as magistrates under this Act.

5. So much of any Act or law as may be inconsistent with this Act, is hereby repealed: Provided that such repeal shall not affect anything duly done or suffered, or any right acquired, or any liability, penalty or forfeiture incurred, before the passing of this Act, or any proceeding pending at the time of the passing thereof, for enforcing any such right, liability, penalty or forfeiture.

Repeal of inconsistent enactments. Proviso.

CHAP.

CHAP. 32.

An Act to amend the Law relating to the fraudulent marking of Merchandise.

[*Assented to 14th June*, 1872.]

Preamble.

WHEREAS it is expedient to amend the law relating to the fraudulent marking of Merchandise, and to the sale of Merchandise falsely marked for the purpose of fraud: Therefore Her Majesty, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows:—

Interpretation "Person."

1. In the construction of this Act the word "person" shall include any person, whether a subject of Her Majesty or not, and any body corporate or body of the like nature, whether constituted according to the law of Canada, or of any of Her Majesty's dominions or colonies, or according to the law of any foreign country, and also any company, association or society of persons, whether the members thereof be subjects of Her Majesty or not, or some of such persons be subjects of Her Majesty and some of them not, and whether such body corporate, body of the like nature, company, association or society, be established or carry on business within Her Majesty's Dominions or elsewhere, or partly within Her Majesty's Dominions and partly elsewhere: the word "mark" shall include any name, signature, word, letter, device, emblem, figure, sign, seal, stamp, diagram, label, ticket or other mark of any other description: and the expression "trade mark", shall include any and every such name, signature, word, letter, device, emblem, figure, sign, seal, stamp, diagram, label, ticket or other mark as aforesaid, registered or unregistered, lawfully used by any person to denote any chattel or article to be an article or thing of the manufacture, workmanship, production or merchandise of such person, or to be an article or thing of any peculiar or particular description, made or sold by such person, and shall also include any name, signature, word, letter, number, figure, mark or sign, which, in pursuance of any Statute or Statutes for the time being in force, relating to trade marks or registered designs, is to be put or placed upon or attached to any chattel or article during the existence or continuance of any patent, copyright or other sole right acquired under the provisions of such Statutes or any of them.

Mark.

Trade Mark.

Forging or counterfeiting any trade mark, or unlawfully applying the same to be a misdemeanor.

2. Every person who, with intent to defraud, or to enable another to defraud any person, forges or counterfeits, or causes or procures to be forged or counterfeited, any trade mark, or applies, or causes or procures to be applied, any trade mark or any forged or counterfeit trade mark,

mark, to any chattel or article, not being the manufacture, workmanship, production or merchandise of any person denoted or intended to be denoted by such trade mark, or denoted or intended to be denoted by such forged or counterfeited trade mark, or not being the manufacture, workmanship, production or merchandise of any person whose trade mark is so forged or counterfeited; or applies, or causes or procures to be applied any trade mark, or any forged or counterfeited trade mark, to any chattel or article, not being the particular or peculiar description of manufacture, workmanship, production or merchandise, denoted, or intended to be denoted by such trade mark, or by such forged or counterfeited trade mark, is guilty of a misdemeanor; and every person so committing a misdemeanor shall also forfeit to Her Majesty every chattel and article belonging to such person to which he has so unlawfully applied, or caused or procured to be applied, any such trade mark or forged or counterfeited trade mark as aforesaid; and every instrument in the possession or power of such person, and by means of which any such trade mark, or forged or counterfeited trade mark as aforesaid, has been so applied, and every instrument or mark in the possession or power of such person for applying any such trade mark, or counterfeited trade mark as aforesaid, shall be forfeited to Her Majesty; and the court before which any such misdemeanor is tried may order such forfeited chattels or articles as aforesaid to be destroyed or otherwise disposed of as such court thinks fit.

Articles marked to be forfeited, and also instruments used in marking.

How disposed of.

3. Every person who, with intent to defraud, or to enable another to defraud any person, applies or causes or procures to be applied any trade mark or any forged or counterfeited trade mark, to any cask, bottle, stopper, cork, capsule, vessel, case, cover, wrapper, band, reel, ticket, label or other thing in, on, or with which any chattel or article is intended to be sold or is sold, or uttered or exposed for sale, or intended for any purpose of trade or manufacture; or encloses or places any chattel or article, or causes or procures any chattel or article to be enclosed or placed in, upon, under, or with any cask, bottle, stopper, cork, capsule, vessel, case, cover, wrapper, band, reel, ticket, label or other thing to which any trade mark has been falsely applied, or to which any forged or counterfeited trade mark has been applied; or applies or attaches or causes or procures to be applied or attached to any chattel or article, any case, cover, reel, ticket, or label or other thing to which any trade mark has been falsely applied, or to which any forged or counterfeited trade mark has been applied; or encloses, places or attaches any chattel or article, or causes or procures any chattel or article to be enclosed, placed, or attached in, upon, under, with, or to any cask, bottle, stopper, vessel, case, cover, wrapper, band reel,

Unlawfully applying trade mark to cask, cover, wrapper, &c., to be a misdemeanor.

reel, ticket, label or other thing having thereon any trade mark of any other person, is guilty of a misdemeanor: and every person so committing a misdemeanor, shall also forfeit to Her Majesty every such chattel and article, and also every such cask, bottle, stopper, vessel, case, cover, wrapper, band, reel, ticket, label or other thing as aforesaid in the possession or power of such person; and every other similar cask, bottle, stopper, vessel, case, cover, wrapper, band, reel, ticket, label or other thing made to be used in like manner as aforesaid, and every instrument in the possession or power of such person, and by means of which any such trade mark, or forged or counterfeited trade mark as aforesaid has been applied, and also every instrument or mark in the possession or power of such person for applying any such trade mark or forged or counterfeited trade mark as aforesaid, shall be forfeited to Her Majesty; and the court before which any such misdemeanor is tried, may order such forfeited articles as aforesaid to be destroyed or otherwise disposed of as such court thinks fit.

Articles to be forfeited, and also instruments used.

How disposed of.

Selling and uttering articles bearing forged trade mark, or mark wrongfully applied.

4. Every person who sells, utters or exposes either for sale or for any purpose of trade or manufacture, or causes or procures to be sold, uttered or exposed for sale or other purpose as aforesaid, any chattel or article, together with any forged or counterfeited trade mark, which he knows to be forged or counterfeited, or together with the trade mark of any other person applied or used falsely or wrongfully or without lawful authority or excuse, knowing such trade mark of another person to have been so applied or used as aforesaid, and that, whether any such trade mark, or forged or counterfeited trade mark as aforesaid, together with which any such chattel or article is sold, uttered or exposed for sale or other purpose as aforesaid, be in, upon, about, or with such chattel or article, or in, upon, about, or with any cask, bottle, stopper, cork, capsule, vessel, case, cover, wrapper, band, reel, ticket, label or other thing in, upon, about, or with which such chattel or article is so sold or uttered or exposed for sale or other purpose as aforesaid—shall for every such offence forfeit and pay to Her Majesty a sum of money equal to the value of the chattel or article so sold, uttered, offered or exposed for sale or other purpose as aforesaid, and a further sum not exceeding twenty dollars and not less than two dollars.

Penalty.

What shall be deemed a forged and counterfeited trade mark.

5. Every addition to and every alteration of, and also every imitation of any trade mark which is made, applied or used with intent to defraud, or to enable any other person to defraud, or which causes a trade mark with such alteration or addition, or causes such imitation of a trade mark, to resemble any genuine trade mark so or in such a manner as

as to be calculated or likely to deceive, shall be and be deemed to be a false, forged and counterfeited trade mark within the meaning of this Act; and every act of making, applying, or otherwise using, procuring, vending, or delivering to another, any such addition to or alteration of a trade mark or any such imitation of a trade mark as aforesaid, done by any person with intent to defraud, or to enable any other person to defraud, shall be and be deemed to be forging and counterfeiting a trade mark within the meaning of this Act; and every act of making, applying, using, procuring, vending or delivering to another, or having in possession any forged or counterfeited trade mark, or any trade mark without the authority of the owner of such trade mark, or of some person by him authorized to use or apply the same, or other lawful and sufficient excuse, shall be *primâ facie* evidence of an intent to defraud, or to enable another person to defraud, and shall be deemed to be forging and counterfeiting such trade mark, within the meaning of this Act.

And what an act of forging such mark.

6. Where any person has before or after the coming into force of this Act, sold, uttered, or exposed for sale or other purpose as aforesaid, or has caused or procured to be sold, uttered or exposed for sale or other purpose as aforesaid, any chattel or article together with any forged or counterfeited trade mark, or together with the trade mark of any other person used without lawful authority or excuse as aforesaid, and that whether such trade mark, or such forged or counterfeited trade mark as aforesaid, be in, upon, about or with such chattel or article, or in, upon, about or with any cask, bottle, stopper, cork, capsule, vessel, case, cover, wrapper, band, reel, ticket, label, or other thing in, upon, about, or with which such chattel or article has been sold or exposed for sale, such person shall be bound upon demand in writing delivered to him, or left for him at his last known dwelling house, or at the place of sale or exposure for sale, by or on the behalf of any person whose trade mark has been so forged or counterfeited, or used without lawful authority or excuse as aforesaid, to give to the person requiring the same, or his attorney or agent, within forty-eight hours after such demand, full information in writing of the name and address of the person from whom he purchased or obtained such chattel or article, and of the time when he obtained the same: and it shall be lawful for any Justice of the Peace, on information on oath of such demand and refusal, to summon before him the party refusing, and on being satisfied that such demand ought to be complied with, to order such information to be given within a certain time to be appointed by him; and any such party who refuses or neglects to comply with such

Person selling any article bearing forged trade mark bound to give information when required

In case of refusal may be summoned by a Justice of the Peace.

Penalty for refusing to comply.

such order shall for every such offence, forfeit and pay to Her Majesty, the sum of twenty dollars, and such refusal or neglect shall be *primâ facie* evidence that the person so refusing or neglecting had full knowledge that the trade mark, together with which such chattel or article was sold, uttered, or exposed for sale or other purpose as aforesaid, at the time of such selling, uttering or exposing, was a forged, counterfeited and false trade mark, or was the trade mark of a person, which had been used without lawful authority or excuse, as the case may be.

Falsely making or designating any article with intent to defraud.

7. Every person who, with intent to defraud, or to enable another to defraud, puts, or causes or procures to be put upon any chattel or article, or upon any cask, bottle, stopper, cork, capsule, vessel, case, cover, wrapper, band, reel, ticket, label, or other thing, together with which any chattel or article is intended to be, or is sold or uttered, or exposed for sale, or for any purpose of trade or manufacture, or upon any case, frame, or other thing, in or by means of which any chattel or article is intended to be, or is exposed for sale, any false description, statement or other indication of or respecting the quality, number, quantity, measure, or weight of such chattel or article, or any part thereof, or of the place or country in which such chattel or article has been made, manufactured, bottled, put up, or produced; or puts or causes, or procures to be put upon any such chattel or article, cask, bottle, stopper, cork, capsule, vessel, case, cover, wrapper, band, reel, ticket, label or thing as aforesaid, any word, letter, figure, signature or mark, for the purpose of falsely indicating such chattel or article, or the mode of manufacturing, bottling or puting up, or producing the same, or the ornamentation, shape or configuration thereof, to be the subject of any existing patent, privilege or copyright, shall for every such offence, forfeit and pay to Her Majesty a sum of money equal to the value of the chattel or article so sold or uttered, or exposed for sale, and a further sum not exceeding twenty dollars, and not less than two dollars.

Penalty.

Knowingly selling any article falsely marked or designated.

8. Every person who sells, utters or exposes for sale, or for any purpose of trade or manufacture, or causes or procures to be sold, uttered or exposed for sale, or other purpose as aforesaid, any chattel or article, upon which has been, to his knowledge, put, or upon any cask, bottle, stopper, vessel, case, cover, wrapper, band, reel, ticket, label or other thing, together with which such chattel or article is sold or uttered, or exposed for sale or other purpose as aforesaid, has been so put, or upon any case, frame or other thing used or employed to expose or exhibit such chattel or article for sale, has been so put, any false description, statement or other indication of, or respecting the number, quantity, measure or weight

weight of such chattel or article, or any part thereof, or the place or country in which such chattel or article has been made, manufactured or produced, shall for every such offence, forfeit and pay to Her Majesty a sum not exceeding twenty dollars, and not less than two dollars. Penalty.

Except that terms in general use may be employed.

9. Provided always, that the provisions of this Act shall not be construed so as to make it any offence for any person to apply to any chattel or article, or to any cask, bottle, stopper, cork, capsule, vessel, case, cover, wrapper, band, reel, ticket, label or other thing, with which such chattel or article is sold, or intended to be sold, any name, word or expression generally used for indicating such chattel or article to be of some particular class or description of manufacture only; or so as to make it any offence for any person to sell, utter, or offer, or expose for sale any chattel, or article to which, or to any cask, bottle, stopper, vessel, case, cover, wrapper, band, reel, ticket, label or other thing sold therewith, any such generally used name, word or expression as aforesaid, has been applied.

Specific description of trade mark unnecessary in indictment, &c.

10. In every indictment, pleading, proceeding, and document whatsoever, in which any trade mark is intended to be mentioned, it shall be sufficient to mention or state the same to be a trade mark without further or otherwise describing such trade mark, or setting forth any copy or *fac simile* thereof; and in every indictment, pleading, proceeding and document whatsoever, in which it is intended to mention any forged or counterfeited trade mark, it shall be sufficient to mention or state the same to be a forged or counterfeited trade mark, without further or otherwise describing such forged or counterfeited trade mark, or setting forth any copy or *fac simile* thereof.

Remedy at law not to be affected.

11. The provisions in this Act contained, of or concerning any act or any proceeding, judgment or conviction for any act hereby declared to be a misdemeanor or offence, shall not, nor shall any of them, take away, diminish or prejudicially affect any suit, process, proceeding, right or remedy, which any person aggrieved by such act may be entitled to at law, in equity or otherwise, and shall not, nor shall any of them, exempt or excuse any person from answering or making discovery upon examination as a witness, or upon interrogatories, or otherwise in any suit or other civil proceeding: Provided always, that no evidence, statement or discovery, which any person is so compelled to give or make shall be admissible in evidence against such person in support of any indictment for a misdemeanor at common law or otherwise, or of any proceeding under the provisions of this Act.

Compulsory evidence not to be used in prosecution of the person giving it.

Indictment stating intent to defraud generally shall be sufficient.

12. In every indictment, information, conviction, pleading, and proceeding against any person for any misdemeanor or other offence against the provisions of this Act, in which it may be necessary to allege or mention an intent to defraud, or to enable another to defraud, it shall be sufficient to allege or mention that the person accused of having done any act which is hereby made a misdemeanor or other offence, did such act with intent to defraud, or with intent to enable some other person to defraud, without alleging or mentioning any intent to defraud any particular person; and on the trial of any such indictment or information for any such misdemeanor, and on the hearing of any information or charge of or for any such other offence as aforesaid, and on the trial of any action against any person to recover a penalty for any such other offence, as aforesaid, it shall not be necessary to prove an intent to defraud any particular person, or an intent to enable any particular person to defraud any particular person, but it shall be sufficient to prove with respect to every such misdemeanor or offence that the person accused did the act charged with intent to defraud, or with intent to enable some other person to defraud, or with the intent that any other person might be enabled to defraud.

Intent to defraud a particular person need not be proved.

Accessories.

13. Every person who aids, abets, counsels or procures the commission of any offence which is by this Act made a misdemeanor, is also guilty of a misdemeanor.

Punishment for misdemeanor under this Act.

14. Every person convicted or found guilty of any offence which is by this Act made a misdemeanor, shall be liable, at the discretion of the court, and as the court shall award, to suffer such punishment by imprisonment for not more than two years, with or without hard labor, or by fine, or both by imprisonment with or without hard labor and fine, and also by imprisonment until the fine (if any) shall have been paid and satisfied.

Recovery of penalties.

15. In every case in which any person has committed or done any offence or act, whereby he has forfeited or become liable to pay to Her Majesty any of the penalties or sums of money mentioned in the provisions of this Act, every such penalty or sum of money may be recovered in an action of debt, which any person may, as plaintiff for and on behalf of Her Majesty, commence and prosecute to judgment in any court of record, and the amount of every such penalty or sum of money to be recovered in any such action, shall or may be determined by the jury (if any) sworn to try the issue in such action, and if there be no such jury, then by the court or some other jury as the court thinks fit; or instead of any such action being commenced, such penalty or sum of money may

be

be recovered by a summary proceeding before two Justices of the Peace having jurisdiction in the county or place where the party offending resides or has any place of business, or in the county or place in which the offence has been committed.

Recovery of penalties before a J.P. to be under 32-33 V., c. 31.

16. In every case in which any such penalty or sum of money forfeited to Her Majesty, as hereinbefore mentioned, is sought to be recovered by a summary proceeding before two Justices of the Peace, the offence or act by the committing or doing of which, such penalty or sum of money has been so forfeited, shall be, and be deemed to be an offence and act within the meaning of the Act passed in the session held in the thirty-second and thirty-third years of the reign of Her present Majesty, intituled "*An Act respecting the duties of Justices of the Peace out of Sessions, in relation to summary convictions and orders*;" and the information, conviction of the offender, and other proceedings for the recovery of the penalty, or sum so forfeited, shall be had according to the provisions of the said Act.

Penalties, how paid and accounted for.

Costs.

17. In every case in which judgment is obtained in any such action as aforesaid, for the amount of any such penalty or sum of money forfeited to Her Majesty, the amount thereof shall be paid by the defendant to the sheriff or the officer of the court, who shall account for the same in like manner as other moneys payable to Her Majesty, and if it be not paid, may be recovered, or the amount thereof levied, or the payment thereof enforced by execution or other proper proceeding, as money due to Her Majesty; and the plaintiff suing on behalf of Her Majesty, upon obtaining judgment, shall be entitled to recover and have execution for all his costs of suit, which shall include a full indemnity for all costs and charges which he shall or may have expended or incurred in, about or for the purposes of the action, unless the court or a judge thereof, directs that costs of the ordinary amount only shall be allowed.

Time for commencing action limited.

18. No person shall commence any action or proceeding for the recovery of any penalty, or for procuring the conviction of any offender in manner hereinbefore provided, after the expiration of three years next after the committing of the offence, or one year next after the first discovery thereof by the person proceeding.

Contract to sell article bearing trade mark to imply that the same is genuine.

19. In every case in which, after this Act is in force, any person sells or contracts to sell (whether by writing or not) to any other person, any chattel or article, with any trade mark thereon, or upon any cask, bottle, stopper, cork, capsule, vessel, case, cover, wrapper, band, reel, ticket, label or other

thing, together with which such chattel or article is sold, or contracted to be sold, the sale or contract to sell shall in every such case be deemed to have been made with a warranty or contract by the vendor to or with the vendee, that every trade mark upon such chattel or article, or upon any such cask, bottle, stopper, vessel, case, cover, wrapper, band, reel, ticket, label or other thing as aforesaid, was genuine and true, and not forged or counterfeit, and not wrongfully used, unless the contrary be expressed in some writing signed by or on behalf of the vendor, and delivered to and accepted by the vendee.

Contract to sell article bearing special designation or description to imply that the same is genuine.

20. In every case in which, after this Act is in force, any person sells or contracts to sell (whether by writing or not) to any other person any chattel or article upon which, or upon any cask, bottle, stopper, cork, capsule, vessel, case, cover, wrapper, band, reel, ticket, label or other thing, together with which such chattel is sold or contracted to be sold, there is any description, statement or other indication of or respecting the number, quality, quantity, measure or weight of such chattel or article, or the place or country in which such chattel or article has been made, manufactured, bottled or put up, or produced, the sale or contract to sell shall in every such case be deemed to have been made with a warranty or contract by the vendor to or with the vendee, that no such description, statement or other indication was in any material respect false or untrue, unless the contrary be expressed in some writing signed by or on behalf of the vendor, and delivered to and accepted by the vendee.

Court may order article wrongfully marked to be destroyed or otherwise disposed of.

21. In every case in any suit at law or in equity against any person, for forging or counterfeiting any trade mark, or for fraudulently applying any trade mark to any chattel or article, or for selling, exposing for sale, or uttering any chattel or article with any trade mark falsely or wrongfully applied thereto, or with any forged or counterfeit trade mark applied thereto, or for preventing the repetition or continuance of any such wrongful act, or the commission of any similar act, in which the plaintiff obtains a judgment or decree against the defendant, the court shall have power to direct every such chattel and article to be destroyed or otherwise disposed of: and in every such suit in a court of law, the court may, upon giving judgment for the plaintiff, award a writ of injunction or injunctions to the defendant, commanding him to forbear from committing, and not by himself or otherwise, to repeat or commit any offence or wrongful act of the like nature as that of which he has been convicted by such judgment, and any disobedience of any such writ of injunction or injunctions shall be punished as a contempt of court; and in every such suit

And may issue injunction to defendant.

suit at law or in equity, it shall be lawful for the court, or a judge thereof, to make such order as such court or judge thinks fit, for the inspection of every or any manufacture or process carried on by the defendant, in which any such forged or counterfeit trade mark or any such trade mark as aforesaid, is alleged to be used or applied as aforesaid, and of every or any chattel, article and thing, in the possession or power of the defendant, alleged to have thereon, or in any way attached thereto, any forged or counterfeit trade mark, or any trade mark falsely or wrongfully applied, and every or any instrument or mark in the possession or power of the defendant, used, or intended to be, or capable of being used for producing or making any forged or counterfeit trade mark, or trade mark alleged to be forged or counterfeit, or for falsely or wrongfully applying any trade mark; and any person who refuses or neglects to obey any such order, shall be held guilty of a contempt of court.

And may order inspection of manufacture or process to be made.

Penalty for refusing to allow inspection.

22. In every case in which any person does, or causes to be done, any of the wrongful acts following, that is to say:—forges or counterfeits any trade mark; or, for the purpose of sale or for the purpose of any manufacture or trade, applies any forged or counterfeit trade mark to any chattel or article, or to any cask, bottle, stopper, cork, capsule, vessel, case, cover, wrapper, band, reel, ticket, label or thing in or with which any chattel or article is intended to be sold, or is sold, or uttered, or exposed for sale, or for any purpose of trade or manufacture; or encloses or places any chattel or article in, upon, under or with any cask, bottle, stopper, cork, capsule, vessel, case, cover, wrapper, band, reel, ticket, label or other thing, to which any trade mark has been falsely applied, or to which any forged or counterfeit trade mark has been applied; or applies or attaches to any chattel or article, any case, cover, reel, wrapper, band, ticket, label or other thing to which any trade mark has been falsely applied, or to which any forged or counterfeit trade mark has been applied; or encloses, places or attaches any chattel or article in, upon, under, with or to any cask, bottle, stopper, cork, capsule, vessel, case, cover, reel, wrapper, band, ticket, label or other thing having thereon any trade mark of any other person,—every person aggrieved by any such wrongful act, shall be entitled to maintain an action or suit for damages in respect thereof, against the person guilty of having done such act, or causing or procuring the same to be done, and for preventing the repetition or continuance of the wrongful act, and the commission of any similar act,

Action for damages may be maintained against any person forging a trade mark, or applying a forged trade mark, or enclosing any article in cask, &c., to which forged trade mark has been applied, or attaching, unlawfully, trade mark, or forged trade mark, to any article, or attaching trade mark, belonging to another, to any article.

Damages.

23. In every action which any person, under the provisions of this Act commences as plaintiff for or on behalf of Her Majesty, for recovering any penalty or sum of money,

Defendant, if he obtain judgment to recover full

costs in actions brought on behalf of Her Majesty.

money, if the defendant obtains judgment, he shall be entitled to recover his costs of suit, which shall include a full indemnity for all the costs, charges and expenses by him expended, or incurred in, about or for the purposes of the action, unless the court or a judge there directs that costs of the ordinary amount only shall be allowed.

In certain cases, plaintiff may be required to give security for costs.

24. In any action which any person under the provisions of this Act, commences as plaintiff for or on behalf of Her Majesty for recovering any penalty or sum of money, if it be shown to the satisfaction of the court, or a judge thereof, that the person suing as plaintiff for, or on behalf of Her Majesty, has no ground for alleging that he has been aggrieved by the committing of the alleged offence, in respect of which the penalty or sum of money is alleged to have become payable, and also that the person so suing as plaintiff is not resident within the jurisdiction of the court, or is not a person of sufficient property to be able to pay any costs which the defendant may recover in the action, the court or judge may order that the plaintiff shall give security, by the bond or recognizance of himself and a surety, or by the deposit of a sum of money or otherwise, as the court or judge thinks fit, for the payment to the defendant of any costs which he may be entitled to recover in the action.

Commencement of Act, and repeal of former enactments.

25. This Act shall commence and take effect on the first day of September, in the present year, one thousand eight hundred and seventy-two; and the thirtieth and thirty-first sections of the Act passed in the session held in the thirty-second and thirty-third years of Her Majesty's reign, intituled: "*An Act respecting Forgery*," and the ninth section of "*The Trade Mark and Design Act of* 1868," are hereby repealed, as regards any offence committed after this Act comes into force.

Short title.

26. The expression "*The Trade Marks Offences Act*, 1872," shall be a sufficient description and citation of this Act.

CHAP. 33.

An Act for the avoidance of doubts respecting Larceny of Stamps.

[*Assented to* 14*th June*, 1872.]

Preamble, 32, 33 V., c. 21. 31 V., c. 10.

FOR the avoidance of doubts under the Act passed in the session held in the thirty-second and thirty-third years of Her Majesty's reign and intituled "*An Act respecting larceny*

larceny and other similar offences," and "*The Post Office Act*, 1867," Her Majesty by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows:—

Stamps, &c., to be deemed chattel property and subjects of larceny under 32 & 33 V., c. 21, and 31 V., c. 10.

1. Every postal card, postage stamp and every other stamp issued or prepared for issue by the authority of the Parliament of Canada, or of the Legislature of any Province in Canada, for the payment of any rate or duty on bills of exchange, or promissory notes, or law proceedings, or of any rate or duty whatever, and whether still in the possession of the Crown, or of any person or corporation, or of any officer or agent of the Government of Canada or of the Province by the authority of the Legislature whereof it was issued or prepared for issue shall be held to be a chattel and "property" within the meaning of the Acts cited in the preamble of this Act, and of all the enactments and provisions thereof, and to be equal in value to the amount of the postage, rate or duty which can be paid by it, and is expressed on its face in words or figures, or both; and in any indictment or proceeding for larceny, or any other offence against either of the said Acts, in respect of any such stamp, the property thereof may be laid in the person in whose possession, as the owner thereof, it was when the larceny or offence was committed, or in the Crown if it was then unissued or in the possession of any officer or agent of the Government of the Dominion or of the Province by authority of the Legislature whereof it was issued or prepared for issue.

Intention of this Act.

2. Nothing in this Act shall be construed as intending that such stamps as aforesaid were not, without this Act, chattel property and subjects of larceny at common law, and under the Acts cited in the preamble.

CHAP. 34.

An Act to correct a clerical error in the Act respecting malicious injuries to Property.

[*Assented to* 14*th June*, 1872.]

Preamble.

WHEREAS there is a clerical error in the Act hereinafter cited, which it is expedient to correct: Therefore Her Majesty, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows:

Error in s. 3 of 32, 33 V., c. 22, corrected.

1. The word "not" in the last line but two of the third section of the English version of the Act passed in the session

session held in the thirty-second and thirty-third years of Her Majesty's Reign, intituled "An Act respecting malicious injuries to property," as printed by the Queen's Printer, is declared to have been inserted by a clerical error, and shall be struck out and form no part of the said section, in the French version of which the said error does not occur.

CHAP. 35.

An Act to amend the Law relating to Advertisements respecting Stolen Goods.

[*Assented to* 14*th June*, 1872.]

Preamble. 32, 33 V., c 21.

WHEREAS under section one hundred and sixteen of the Act passed in the session held in the thirty-second and thirty-third years of Her Majesty's reign, chapter twenty-one, intituled "*An Act respecting Larceny and other similar Offences*," whosoever prints or publishes advertisements for the return of stolen goods without questions being asked, or the like advertisements therein mentioned, forfeits the sum of two hundred and fifty dollars for any such offence, to any person who will sue for the same by action of debt to be recovered with full costs of suit:—

And whereas it is expedient to place such actions under certain restrictions: Therefore Her Majesty, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows:

Short Titles.

1. This Act may be cited as "The Larceny Advertisements Act, 1872," and shall be construed as one Act with the recited Act, which may be cited as "The Larceny Act, 1869," and that Act and this Act may be cited together as "The Larceny Acts, 1869 and 1872."

Interpretation.

2. In this Act, the term "newspaper" means a newspaper as defined for the purposes of the Acts for the time being in force relating to the carriage of newspapers by post.

Action must be brought within six months.

3. Every action against the printer or publisher of a newspaper to recover a forfeiture under section one hundred and sixteen of "*The Larceny Act*, 1869," shall be brought within six months after the forfeiture is incurred.

Commencement of Act.

4. This Act shall take effect on the first day of July next.



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CHAP. 3.

An Act to amend the Act respecting Procedure in Criminal Cases.

[*Assented to 3rd May*, 1873.]

HER MAJESTY, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows :— Preamble.

1. So much of the one hundredth and seventh section of the Act passed in the session held in the thirty-second and thirty-third years of Her Majesty's reign, and intituled "*An Act respecting procedure in criminal cases, and other matters relating to Criminal Law*," as is in the words following :—"it shall not be necessary for the judge before whom "such prisoner has been convicted, to make any report of "the case previously to the sentence being carried into "execution ; but" are hereby repealed and the following words are substituted for them—"the judge, before whom "such prisoner has been convicted shall forthwith make a "report of the case to the Secretary of State of Canada for "the information of the Governor ; and the day to be ap- "pointed for carrying the sentence into execution shall be "such as, in the opinion of the judge, will allow sufficient "time for the signification of the Governor's pleasure before "such day, and"—which words, so substituted, shall form part of the said section in the place and stead of those hereby repealed. S. 107 of 32, 33 V., c. 29 amended. Words repealed. Words substituted.

2. The fifth section of chapter one hundred and thirteen of the Consolidated Statutes for Upper Canada, intituled : "*An Act respecting new trials and appeals and Writs of Error in Criminal cases in Upper Canada*," is hereby repealed. S. 5 of c. 113, Con. Stat. for U. C. repealed.

CHAP.

CHAP. 8.

An Act with respect to the Carriage of Dangerous Goods in Ships.

[*Assented to 3rd May*, 1873.]

Preamble.

HER Majesty, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows :—

Short title.

1. This Act may be cited for all purposes as, "The Carriage of Dangerous Goods Act, 1873."

Commencement of Act.

2. This Act shall come into operation upon, from and after the day not being earlier than the first day of January, one thousand eight hundred and seventy-four, appointed for that purpose in any proclamation by the Governor, to the effect that the same has been confirmed and approved by Her Majesty in Council, which day is hereinafter referred to as the commencement of this Act.

S. 329 of Imperial Act 17, 18 V., c. 104 repealed.

3. Upon, from and after the commencement of this Act, section three hundred and twenty-nine of the Act of the Parliament of the United Kingdom, passed in the session thereof, held in the seventeenth and eighteenth years of Her Majesty's reign, chapter one hundred and four, "to amend and consolidate the Acts relating to Merchant Shipping," known as "*The Merchant Shipping Act*, 1854," shall be, and the same is hereby repealed, in so far as the same relates to ships registered in Canada.

Interpretation "Ship."

4. In this Act, the word "ship" means only vessels used in navigation (not propelled exclusively by oars), registered in Canada;

"Ships belonging to Her Majesty."

The term "ships belonging to Her Majesty," includes ships the cost of which has been defrayed out of the Consolidated Revenue Fund of Canada, and ships described as the property of Canada, by the one hundred and eighth section of "*The British North America Act*, 1867;"

"Master."

The word "master," includes every person having command or charge of any ship.

Act not to apply to H.M. ships.

5. This Act shall not apply to ships belonging to Her Majesty.

Sending dangerous goods in ships unmarked.

6. If any person sends, or attempts to send by, or not being the master or owner of the ship, carries or attempts to carry in any ship, from any port or place in Canada, any dangerous goods,

goods, that is to say, aquafortis, oil of vitriol, gunpowder, nitro-glycerine, naphtha, benzine, lucifer-matches or any other goods of a dangerous nature, without distinctly marking their nature on the outside of the package containing the same, and giving written notice of the nature of such goods, and of the name and address of the sender thereof, to the master or owner of the ship, at or before the time of sending the same to be shipped, or taking the same on board the ship, he shall for every such offence incur a penalty not exceeding five hundred dollars: Provided that if such person show that he was merely an agent in the shipment of any such goods as aforesaid, and was not aware, and did not suspect, and had no reason to suspect that the goods shipped by him were of a dangerous nature, the penalty which he incurs shall not exceed forty dollars. Penalty. Proviso.

7. Any person who knowingly sends, or attempts to send by, or carries or attempts to carry in any ship, from any port or place in Canada, any dangerous goods, or goods of a dangerous nature, under a false description, or falsely describes the sender or carrier thereof, shall incur a penalty not exceeding two thousand dollars. Sending such goods under false description. Penalty.

8. The master or owner of any ship may refuse to take on board any package or parcel which he suspects to contain goods of a dangerous nature, and may require it to be opened to ascertain the fact. Master may refuse to receive package.

9. Where any dangerous goods, as defined in the sixth section of this Act, or any goods which, in the judgment of the master or owner, are of a dangerous nature, have been sent on board any ship, within the limits of the Dominion of Canada, without being marked as aforesaid, or without such notice having been given, as aforesaid, the master or owner of such ship may cause such goods to be thrown overboard; and neither the master nor the owner of the ship shall, in respect of such throwing overboard, be subject to any liability, civil or criminal, in any court in Canada. Such goods sent on board without notice, may be thrown overboard.

10. Where any dangerous goods have been sent or attempted to be sent, or carried or attempted to be carried, on board any ship, from any port or place in Canada, without being marked as aforesaid, or without such notice having been given as aforesaid, and where any such goods have been sent or attempted to be sent under a false description, or the sender or carrier thereof has been falsely described, it shall be lawful for any court of record or of superior jurisdiction, on application by or on behalf of the owner, charterer or master of the ship, to declare such goods to be, and they shall thereupon be forfeited, and when forfeited shall be disposed of as the court directs. Goods may be forfeited by order of Court.

CHAP.

CHAP. 34.

An Act further to amend the "Act to make further provision for the Government of the North-West Territories."

[*Assented to 23rd May*, 1873.]

Preamble.

IN amendment of the Act passed in the thirty-fourth year of Her Majesty's reign, intituled "*An Act to make further provision for the Government of the North-West Territories*," Her Majesty, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows:—

Form of enacting laws.

1. The laws, institutions and ordinances which the Governor in Council is empowered by the said Act from time to time to authorize the Lieutenant-Governor of the North West Territories to make, ordain and establish for the administration of justice in the same, and for the peace, order and good government of Her Majesty's subjects and others therein, shall hereafter be made, ordained and established by the Lieutenant-Governor, by and with the advice and consent of the Council appointed under the said Act, or any Act amending it, to aid in the administration of the North-West Territories; and any order of the Governor in Council made under the said Act, and giving such authority to the Lieutenant-Governor and his Council, is hereby confirmed, and shall be in force until repealed or altered by any subsequent order of the Governor in Council made under the Act first herein cited.

Orders in Council under the said Act confirmed.

Governor in Council may make such laws as Lt. Governor in Council is not empowered to make.

2. Subject to the provisions hereinafter made, it shall be lawful for the Governor in Council to make laws for the peace, order and good government of the said North-West Territories and of Her Majesty's subjects therein, in relation to all matters and subjects in relation to which the Lieutenant Governor and his Council aforesaid are not then empowered to make laws; and for that purpose, either to make new laws or to extend and apply and declare applicable to the North-West Territories, with such amendments and modifications as may be deemed necessary, any Act or Acts of the Parliament of Canada, or any parts thereof; and from time to time to amend or repeal any such laws and make others in their stead. The power hereby given shall extend to the modification, amendment or repeal of any Act mentioned in the schedule to this Act; and the Lieutenant-Governor, acting with the advice and consent of his Council, shall have like powers with respect to the subjects and matters in relation to which he is empowered to make laws:

Extent of either authority.

3.

Laws not to be made for certain purposes.

3. Provided always, that no law to be so made, either by the Governor in Council or by the Lieutenant-Governor of the said territories, with the advice and consent of his Council, shall,—

1. Be inconsistent with any provision of any Act of the Parliament of Canada expressly referring to the said territories; or

2. Impose any tax or any duty of Customs or Excise, or any penalty exceeding one hundred dollars; or

3. Alter or repeal the punishment provided by any Act mentioned in the schedule to this Act, or extended as aforesaid to the said territories, for any crime or offence, or the legal description or character of the crime or offence itself; or

4. Appropriate any public money, lands or property of the Dominion without the authority of Parliament:

Disallowance of laws and laying them before Parliament.

And a copy of every such law made by the Lieutenant-Governor of the said territories and his Council, shall be mailed for transmission to the Governor in Council within ten days after its passing, and may be disallowed by him at any time within two years after its passing; and every such law made by the Governor in Council shall be laid before both Houses of Parliament as soon as conveniently may be after the making and passing thereof.

Copies from Queen's Printer to be evidence.

4. Any copy of any law made by the Governor in Council, or by the Lieutenant-Governor of the North-West Territories, with the advice and consent of his Council, printed in the *Canada Gazette* or purporting to be printed by the Queen's Printer at Ottawa, or by the Queen's Printer or Printer to the Government of Manitoba at Winnipeg, shall be *primâ facie* evidence of such law, and that it is in force.

Customs and Excise laws.

5. Unless and until it is otherwise ordered under this Act, and subject to the provisions of any Act passed during the present session, such provisions of the Customs and Excise laws of Canada, including those fixing the amount of duty, as shall be in force at any time in Manitoba, shall be also in force in the said North-West Territories.

Certain Acts of Canada to be in force in N. W. Territories.

6. Unless and until it is otherwise ordered by any law to be made under this Act, and subject to the provisions of any Act past during the present session, the Acts mentioned in the schedule to this Act, as limited in the said schedule; shall apply to and be in force in the said North-West Territories,

tories, as shall also all Acts of the Parliament of Canada relating to the Executive Government and the several Departments thereof, the public works of the Dominion, and the postal service and offences against the Acts relating thereto.

Commencement of Act.

7. This Act shall come into force on the first day of November, in the present year 1873, and not before.

SCHEDULE A.

ACTS OF THE PARLIAMENT OF CANADA REFERRED TO IN THE SIXTH SECTION OF THIS ACT.

Acts passed in the First Session, 31st Victoria, 1867, 1868.

Chap. 14. An Act to protect the inhabitants of Canada against lawless aggression from subjects of foreign countries at peace with Her Majesty.

" 15. An Act to prevent the unlawful training of persons to the use of arms, and the practice of military evolutions, and to authorize Justices of the Peace to seize and detain arms collected or kept for purposes dangerous to the public peace.

" 69. An Act for the better security of the Crown and of the Government. [Act amended by 32, 33 Vict., chap. 17.]

" 70. An Act respecting riots and riotous assemblies.

" 71. An Act respecting forgery, perjury and intimidation in connection with the Provincial Legislatures and their Acts.

" 72. An Act respecting Accessories to and Abettors in indictable offences.

" 73. An Act respecting the Police of Canada.

" 74. An Act respecting persons in custody charged with high treason or felony.

Acts passed in the Second Session, 32, 33 Victoria, 1869.

Chap. 18. An Act respecting offences relating to the Coin.

" 19. An Act respecting Forgery.

20. An Act respecting offences against the Person.

" 21. An Act respecting Larceny and other similar offences.

" 22. An Act respecting Malicious Injuries to Property. [As amended by 35 Vict., chap. 34.]

" 23. An Act respecting Perjury. [As amended by 33 Vict., chap. 26.

Chap.

Chap. 24. An Act for the better preservation of the peace on Public Works. [As amended by 33 Vict., chap. 28.]

" 29. An Act respecting Procedure in Criminal Cases, and other matters relating to Crimimal Law. [Sections 1 to 7, both inclusive, relating to the apprehension of offenders; sections 81 to 87, both inclusive, relating to the punishment of offences; and sections 125 to 138, both inclusive, relating to pardons, undergoing sentence, limitation of actions and prosecutions, and general provisions. The whole Act will apply, in Manitoba, to offences committed in the North-West Territories, but triable in Manitoba, and the persons committing them.]

" 30. An Act respecting the duties of Justices of the Peace out of Sessions in relation to persons charged with indictable offences. [So far as respects indictable offences committed in the North-West Territories and triable in Manitoba, or committed in some Province of Canada, and the offender apprehended in the Nort-hWest Territories.]

" 31. An Act relating to the duties or Justices of the Peace out of Sessions in relation to summary convictions and orders. [Except so much of this Act (or of any Act amending it) as gives any appeal from any conviction or order adjudged or made under it.]

" 32. An Act respecting the prompt and summary administration of criminal justice in certain cases. [In applying this Act to the North-West Territories, the expression "competent magistrate" shall be construed as meaning any two Justices of the Peace sitting together, as well as any functionary or tribunal having the powers of two Justices of the Peace, and the jurisdiction shall be absolute without the consent of the parties charged.]

" 33. An Act respecting the trial and punishment of juvenile offenders. [In applying this Act to the North-West Territories, the expression "any two or more justices" shall be construed as including any magistrate having the powers of two Justices of the Peace. This Act shall not apply to any offence punishable by imprisonment for two years or upwards, and it shall not be necessary that recognizance be transmitted to any Clerk of the Peace.]

CHAP.

CHAP. 35.

An Act respecting the Administration of Justice, and for the establishment of a Police Force in the North-West Territories.

[*Assented to 23rd May*, 1873.]

Preamble. HER MAJESTY, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows:—

Stipendiary Magistrates. 1. The Governor may, from time to time, appoint, by commission under the Great Seal, one or more fit and proper person or persons to be and act as a Stipendiary Magistrate or Stipendiary Magistrates within the North-West Territories, who shall reside at such place or places as may be ordered by the Governor in Council; and the Governor in Council shall assign to any such Stipendiary Magistrate a yearly salary not exceeding three thousand dollars, together with his actual travelling expenses.

Tenure of office and general powers. 2. Every stipendiary magistrate shall hold office during pleasure; and shall exercise within the North-West territories, or within such limited portion of the same as may be prescribed by the Governor in Council, the magisterial, judicial and other functions appertaining to any Justice of the Peace, or any two Justices of the Peace, under any laws or ordinances which may, from time to time, be in force in the North-West territories.

Power to try certain offences summarily. 3. Any stipendiary magistrate shall further have power to hear and determine in a summary way and without the intervention of a jury, any charge against any person or persons for any of the following offences alleged to have been committed within the North-West territories, as follows:—

Larceny, and 1. Simple larceny, larceny from the person, embezzlement, or obtaining money or property by false pretences, or feloniously receiving stolen property, in any case in which the value of the whole property alleged to have been stolen, embezzled, obtained or received, does not, in the judgment of such Stipendiary Magistrate, exceed one hundred dollars; or

Attempts at. 2. Having attempted to commit larceny from the person or simple larceny; or

Assaults. 3. With having committed an aggravated assault, by unlawfully and maliciously inflicting upon any other person, either

either with or without a weapon or instrument, any grievous bodily harm, or by unlawfully and maliciously cutting, stabbing, or wounding any other person; or

On females or children.

4. With having committed an assault upon any female whatever, or upon any male child whose age does not, in the opinion of the magistrate, exceed fourteen years, such assault, if upon a female, not amounting, in his opinion, to an assault with intent to commit a rape; or

On magistrates.

5. Having assaulted, obstructed, molested or hindered any Stipendiary Magistrate, Justice of the Peace, Commissioner or Superintendent of Police, a policeman, constable or bailiff, or officer of Customs or Excise, or other officer, in the lawful performance of his duty, or with intent to prevent the performance thereof:

Punishment.

And upon any conviction by such Stipendiary Magistrate, the person so convicted may be sentenced to such punishment as he thinks fit, by imprisonment for any period less than two years in any gaol or place of confinement, with or without hard labour, and with or without solitary confinement, or by fine, or by such imprisonment and fine.

Summary trial of certain offences by Judge or two Stipendiary Magistrates.

4. The Chief Justice or any Judge of the Court of Queen's Bench of the Province of Manitoba, or any two Stipendiary Magistrates sitting together as a court, shall have power and authority to hear and determine within the North-West Territories, in a summary way, and without the intervention of any Grand or Petty Jury, any charge against any person or persons for offences alleged to have been committed within the North-West Territories, and the maximum punishment for which does not exceed seven years imprisonment; and such court shall be a court of record; and if imprisonment in a penitentiary be awarded in any such case, the court may cause the convict to be conveyed to the penitentiary in the Province of Manitoba; and he shall undergo such punishment therein as if convicted in the Province of Manitoba.

Court of record.

Punishment by imprisonment.

Power to send certain offenders to Manitoba for trial.

5. Any Justice of the Peace, or any Stipendiary Magistrate or any Judge of the Court of Queen's Bench of the Province of Manitoba, shall have power and authority to commit and cause to be conveyed to gaol in the Province of Manitoba, for trial by the said Court of Queen's Bench according to the laws of criminal procedure in force in the said Province, any person or persons at any time charged with the commission of any offence against any of the laws or Ordinances in force in the North-West Territories, punishable by death or imprisonment in the penitentiary; and the Court of Queen's Bench and any judge thereof, shall have power

Power to try and punish in Manitoba.

power and authority to try any person arraigned before the said court on any such charge; and the jury laws and laws of criminal procedure of the said Province shall apply to any such trial; except that the punishment to be awarded, upon conviction of any such person, shall be according to the laws in force in the North-West Territories: and the sentence may be carried into effect in a penitentiary or other place of confinement in the said Province, as if the same were in the North-West Territories.

Power to convey prisoners into Manitoba.

6. Whenever, under either of the two next preceding sections, any convict or accused person is ordered to be conveyed to gaol or to the penitentiary in Manitoba, any constable or other person in whose charge he is to be so conveyed, shall have the same power to hold and convey him, or to re-take him in case of an escape, and the gaoler or warden of the penitentiary in Manitoba shall have the same power to detain and deal with him, in the said Province, as if it were within the North-West Territories, or as if the said convict or accused person had been ordered to be conveyed to such gaol or penitentiary by some competent court or authority in the said Province.

Custody by Police, where there is no gaol.

7. Where it is impossible or inconvenient, in the absence or remoteness of any gaol or other place of confinement, to carry out any sentence of imprisonment, any Justice of the Peace or Stipendiary Magistrate, or any two Stipendiary Magistrates sitting together as aforesaid, or any Judge of the Court of Queen's Bench of Manitoba, may, according to their several powers and jurisdictions hereinbefore given, sentence such person so convicted before him or them, and sentenced as aforesaid, to such imprisonment, to be placed and kept in the custody of the police of the North-West Territories, with or without hard labour,—the nature and extent of which shall be determined by the Justice of the Peace or Stipendiary Magistrate or Stipendiary Magistrates, or Judge, by or before whom such person was convicted.

Governor in Council may erect lock-up.

8. The Governor in Council may cause to be erected in any part or parts of the North-West Territories any building or buildings, or enclosure or enclosures, for the purposes of the gaol or lock-up, for the confinement of prisoners charged with the commission of any offence, or sentenced to any punishment therein; and confinement or imprisonment therein shall be held lawful and valid.

Supplying place of officers, not existing in N. W. Territories.

9. Whenever in any Act of the Parliament of Canada in force in the North-West Territories, any officer is designated for carrying on any duty therein mentioned, and there shall be no such officer in the North-West Territories, the Lieutenant-Governor

tenant-Governor in Council may order by what other person or officer such duty shall be performed; and anything done by such person or officer, under such order, shall be valid and legal in the premises; or if it be in any such Act ordered that any document or thing shall be transmitted to any officer, court, territorial division or place, and there shall be in the said North-West Territories no such officer, court or territorial division or place, then the Lieutenant-Governor in Council may order to what officer, court or place such transmission shall be made, or may dispense with the transmission thereof.

[NOTE.—*Sections* 10, *&c., to end of Act refer to the Mounted Police force.*]

CHAP. 46.

An Act to amend "An Act respecting the Militia and Defence of the Dominion of Canada."

[*Assented to* 23*rd May*, 1873.]

HER MAJESTY, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows:— Preamble.

1. The twenty-seventh section of the Act passed in the thirty-first year of Her Majesty's reign, intituled "*An Act respecting the Militia and Defence of the Dominion of Canada*," is hereby amended by substituting the following to the first portion of the said section down to and including the words military commanding officer only, viz.:— New provision substituted for part of s. 27 of 31 V., c 40.

"27. The Active Militia, or any corps thereof, shall be liable to be called out for active service with their arms and ammunition, in aid of the civil power in any case in which a riot, disturbance of the peace or other emergency requiring such service occurs, or is, in the opinion of the civil authorities hereinafter mentioned, anticipated as likely to occur, and (in either case) to be beyond the powers of the civil authorities to suppress, or to prevent or deal with, whether such riot, disturbance or other emergency occurs, or is so anticipated within or without the municipality in which such corps is raised or organized: and it shall be the duty of the senior officer of the Active Militia present at any locality to call out the same or any portion thereof as he considers necessary for the purpose of preventing or suppressing any such actual or anticipated riot or disturbance, or for the purpose of meeting and dealing with any such emergency as aforesaid, when thereunto required in writing by the Chairman or Custos of the Quarter Sessions of the Peace, or by any three magistrates, By whom and on what occasions the Active Militia may be called out.

of whom the warden, mayor or other head of the municipality or county in which such riot, disturbance or other emergency occurs, or is anticipated as aforesaid, may be one; and to obey such instructions as may be lawfully given him by any magistrate in regard to the suppression of any such actual riot or disturbance, or in regard to the anticipation of such riot, disturbance or other emergency, or to the suppression of the same, or to the aid to be given to the civil power in case of any such riot, disturbance or other emergency; and every such requisition in writing as aforesaid shall express on the face thereof, the actual occurrence of a riot, disturbance, or emergency, or the anticipation thereof, requiring such service of the Active Militia in aid of the civil power for the suppression thereof: and every officer, non-commissioned officer and man of such Active Militia or any portion thereof, shall, on every such occasion, obey the orders of his commanding officer: and the officers and men, when so called out, shall, without any further or other appointment, and without taking any oath of office, be special constables, and shall be considered to act as such so long as they remain so called out; but they shall act only as a military body, and shall be individually liable to obey the orders of their military commanding officer only."

Requisition must be in writing.

They must obey their Commanding Officer.

Officers and men to be special constables; but to obey their Military Commanding Officer only.

New section in lieu of s. 72, of 31 V., c. 40.

2. The seventy-second section of the Act hereinbefore mentioned, made and passed in the thirty-first year of Her Majesty's reign, is hereby repealed, and the following section is substituted therefor as the seventy-second section of the said Act:—

Her Majesty may convene Courts of Enquiry and Courts Martial.

"72. Her Majesty may convene courts of enquiry and appoint officers of the militia to constitute such courts, for the purpose of investigating and reporting on any matter connected with the government or discipline of the militia, and with the conduct of any officer, non-commissioned officer or private of the force; and shall have power at any time to convene militia courts martial, and to delegate power to convene such courts, and to appoint officers to constitute the same, for the purpose of trying any officer, non-commissioned officer or private of the militia for any offence under this Act, and to delegate also power to approve, confirm, mitigate, or remit any sentence of any such court; but no officer of Her Majesty's regular army on full pay shall sit on any militia court martial."

Proviso.

CHAP

CHAP. 50.

An Act to amend the Act respecting Offences against the Person.

[*Assented to 23rd May*, 1873.]

HER MAJESTY, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows:— Preamble.

1. The forty-ninth section of the Act passed in the session held in the thirty-second and thirty-third years of Her Majesty's reign, and intituled "*An Act respecting offences against the Person*," is hereby amended, so as to be read as follows:— S. 49 of 32-33 V., c. 20, amended.

"Whosoever commits the crime of rape is guilty of felony, and shall be liable to suffer death as a felon, or to be imprisoned in the penitentiary for life, or for any term not less than seven years: and whosoever assaults any woman or girl with intent to commit rape is guilty of a misdemeanor, and shall be liable to be imprisoned in the penitentiary for any term not exceeding seven years, and not less than two years, or to be imprisoned in any other gaol or place of confinement for any term less than two years, with or without hard labour." Rape to be punishable by death or imprisonment. Assault with intent to commit.

And the said section, as so amended, shall form part of the said Act, and be construed and have effect as the forty-ninth section thereof. Construction

CHAP. 51.

An Act further to amend the law respecting certain matters of procedure in criminal cases.

[*Assented to 23rd May*, 1873.]

HER MAJESTY, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows:— Preamble.

1. Section one hundred and five of the Act passed in the session held in the thirty-second and thirty-third years of Her Majesty's reign, and intituled "*An Act respecting Procedure in Criminal Cases, and other matters relating to Criminal* New section for s. 105 of 32, 33 V., c. 29.

Criminal Law," is hereby repealed and the following substituted in lieu thereof:

Removal of insane prisoners.

"105. The Lieutenant-Governor, upon such evidence of the insanity of any person imprisoned for an offence, or imprisoned for safe custody charged with an offence, or imprisoned for not finding bail for good behaviour or to keep the peace, as the Lieutenant-Governor shall consider sufficient, may order the removal of such insane person to a place of safe keeping; and such person shall remain there, or in such other place of safe keeping, as the Lieutenant-Governor may, from time to time, order, until his complete or partial recovery shall be certified to the satisfaction of the Lieutenant-Governor, who may then order such insane person back to imprisonment, if then liable thereto, or otherwise to be discharged."

CHAP. 52.

An Act to extend the Act passed in the 33rd year of Majesty's Reign, intituled "An Act to amend "the Penitentiary Act of 1868."

[*Assented to 23rd May*, 1873.]

Preamble.

HER MAJESTY, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows:—

Periods mentioned in 33 V. c. 30, s. 5, extended to 1st May, 1875 and 1876.

1. For and notwithstanding anything contained in the Act passed in the thirty-third year of Her Majesty's reign, intituled "*An Act to amend the Penitentiary Act of* 1868," the period beyond which no person sentenced in New Brunswick or Nova Scotia to be imprisoned with hard labour for less than one year shall be received or imprisoned in the penitentiary shall be extended to the first day of May, which will be in the year of our Lord one thousand eight hundred and seventy-five; and the period beyond which no person sentenced in either of the said Provinces to imprisonment with hard labor for less than two years, shall be received or imprisoned in the said Penitentiary, shall be extended to the first day of May, which will be in the year of our Lord, one thousand eight hundred and seventy-six.

CHAP. 57.

An Act to provide for keeping order on board Passenger Steamers.

[*Assented to 23rd May*, 1873.]

Preamble.

HER Majesty, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows:—

Disorderly persons on board steamers; how to be treated.

1. The master or officer in command of any steamer may refuse to receive on board thereof any person who is drunk or disorderly, or who causes, or is in a condition to cause, annoyance or injury to passengers on board; or if any such person be on board, the master or officer may put him on shore at any convenient place.

Persons committing certain offences to incur a penalty.

2. If any of the following offences are committed on board any vessel registered in Canada propelled wholly or in part by steam, and carrying passengers to or from any place or places in Canada, or to or from any place or places out of Canada, not being in the United Kingdom, or between any places in Canada (which vessels alone are in this Act included in the term "steamers,") that is to say,—

(1.) If any person being drunk or disorderly has been on that account refused admission into a steamer by the owner or any person in his employment, and nevertheless persists in attempting to enter the steamer:

(2.) If any person being drunk or disorderly on board a steamer is requested by the owner or any person in his employment to leave the same at any place in Canada, being a reasonably convenient place to leave the same, and does not comply with such request:

(3.) If any person on board a steamer, after warning by the master or other officer of the steamer, molests or continues to molest any passenger:

(4.) If any person, after having been refused admission into a steamer by the owner or any person in his employment on account of the steamer being full, and having had the amount of his fare, if he has paid it, returned or tendered to him, nevertheless persists in attempting to enter the steamer:

(5.) If any person on board a steamer, without reasonable excuse, (proof whereof shall lie on him), fails, when requested by the master or other officer thereof, either to pay his fare

or

or exhibit such ticket or other receipt, if any, showing the payment of his fare, as is usually given to persons travelling by and paying their fare on steamers;—

The penalty.

Then and in every such case, the person so offending shall for every such offence incur a penalty not exceeding ten dollars, but this liability shall not prejudice the recovery of any amount payable by him as fare.

Injuring or obstructing the steamer.

3. If any person on board a steamer, without reasonable excuse, (proof whereof shall lie on him) does, or causes to be done, anything in such manner as to obstruct or injure any part of the machinery or tackle of the steamer, or to obstruct, impede or molest the crew, or any of them, in the navigation or management of her, or otherwise in the execution of their duty on or about the steamer, he shall, for every such offence, incur a penalty not exceeding one hundred dollars.

Penalty.

Master of steamer may detain offender.

4. It shall be lawful for the master or other officer of any steamer and for all persons called by him to his assistance, to detain any offender against any of the provisions of the preceding sections of this Act, whose name and address are unknown to such master or officer, and to convey such offender with all convenient despatch before some Justice or Justices of the Peace, to be dealt with according to law.

Application of penalties and how enforced.

5. Any penalty imposed by this Act shall belong wholly to the Crown; and may be recovered with costs, before any one Justice of the Peace, if it does not exceed ten dollars, and before any two Justices of the Peace, or any magistrate having the powers of two Justices of the Peace, under the "*Act respecting the duties of Justices of the Peace out of Sessions, in relation to summary convictions and orders*," as amended by any subsequent Act or Acts, such Justices of the Peace having jurisdiction either in the place where the offence was committed, or if committed while the steamer is under way, then in the place where it shall next stop; and any offender conveyed before such justice or justices, or magistrate under the next preceding section, shall be dealt with as if arrested, and brought before them on his or their warrant, under the said Act.

32, 33 V. c. 31.

Arrest by master valid.

CHAP.

CHAP. 58.

An Act to amend the Acts for more effectually preventing the Desertion of Seamen; and for other purposes.

[*Assented to 23rd May*, 1873.]

Preamble.

IN amendment of chapter forty-three of the Consolidated Statutes of Canada, intituled "*An Act for more effectually preventing the desertion of seamen*," and of the Act of the Parliament of Canada passed in the thirty-fourth year of Her Majesty's reign, and intituled "*An Act for more effectually preventing the desertion of seamen in the Port of Quebec*," Her Majesty, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows:—

Right of appeal and *certiorari* taken away in cases under Con. Stat. Canada, c. 43, and Act of Canada, 34 V., c. 32.

1. There shall be no appeal from any conviction or order adjudged or made under the Acts cited in the preamble to this Act, or either of them, by or before any Judge of the Sessions of the Peace, Police Magistrate, or any two Justices of the Peace, or magistrate having the powers of two Justices of the Peace, as to summary convictions and orders, for any offence against the said Acts, or either of them, committed after the passing of this Act; nor shall such conviction be quashed for want of form, or removed by *certiorari* into any of Her Majesty's superior courts of record; and no warrant or commitment, under the said Acts or either of them, shall be held void by reason of any defect therein, provided that it be therein alleged that the party has been convicted, and there be a good and valid conviction to sustain the same.

Section 66, of 32 & 33, V. c. 31, explained.

2. And for the avoidance of doubt, under the Act hereinafter mentioned, it is hereby declared and enacted, that the Court of General or Quarter Sessions of the Peace appealed to, may grant or refuse in its discretion the request of the appellant or respondent to have a jury empannelled to try the facts of the case, under the sixty-sixth section of the Act passed in the session held in the thirty-second and thirty-third years of Her Majesty's reign, intituled "*An Act respecting the duties of Justices of the Peace out of Sessions, in relation to summary convictions and orders.*"

CHAP.

CHAP. 69.

An Act respecting "The Central Prison for the Province of Ontario."

[*Assented to 23rd May*, 1873.]

Preamble

WHEREAS the Legislature of the Province of Ontario has passed an Act for the establishment, maintenance and management of a reformatory prison to be called "The Central Prison for the Province of Ontario;" and it is expedient that provision should be made by the Parliament of Canada in respect thereof: Therefore Her Majesty, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows:—

Sentencing of offenders to imprisonment in the Central Prison.

1. After a proclamation has been issued by the Lieutenant Governor of the Province of Ontario declaring the prison buildings now being erected in the City of Toronto, and the lands to be used in connection therewith, to be "The Central Prison for the Province of Ontario," every court of criminal jurisdiction in the said Province, before whom any person shall be convicted of any offence punishable by imprisonment in the common gaol for a period of two months or for any longer time, may sentence such offender to imprisonment in the said Central Prison for such period of two months or for such longer time, instead of in the common gaol of the county where the offence was committed or was tried.

Transfer of prisoners from common gaols to the Central Prison.

2. After any proclamation shall have been issued as aforesaid all persons then or thereafter confined in any of the common gaols of the said Province under sentence of imprisonment for any offence may, by direction of the Provincial Secretary of Ontario, be transferred from such common gaols respectively to such central prison, there to be imprisoned for the unexpired portion of the term of imprisonment to which such persons were originally sentenced or committed to such common gaols respectively; and such persons shall thereupon be imprisoned in such Central Prison for the residue of the said respective terms unless they be in the meantime lawfully discharged or removed, and shall be subject to all the rules and regulations of such Central Prison.

Warden to receive and detain offenders.

3. The warden of the Central Prison shall receive into the said prison every offender legally certified to him as sentenced to imprisonment therein; and shall detain him subject to all the rules, regulations and discipline thereof, until the time to which he has been sentenced shall be completed or until he shall be otherwise discharged in due course of law.

4.

Employment of convicts on works without the prison.

4. The Lieutenant Governor of Ontario, by Order in Council, may, from time to time, authorize, direct or sanction the employment upon any specific work or duty, without or beyond the walls or limits of such Central Prison, of any of the prisoners confined or sentenced to be imprisoned therein; and all such prisoners shall, during such last mentioned employment, be subject to all the rules, regulations and discipline of the said Central Prison so far as the same may be applicable, and to such other regulations for the purpose of preventing escapes and otherwise as may be approved by the said Lieutenant Governor in that behalf: Provided that when any such prisoner or prisoners shall be so employed without the walls or limits of such Central Prison, it shall only be done under the strictest care and supervision of officers appointed to that duty.

Removal of prisoners.

5. The said Lieutenant Governor may, from time to time by warrant signed by the Provincial Secretary of Ontario, or by such other officer as may be authorized by the Lieutenant Governor in Council in that behalf, direct the removal of any offender from the Central Prison to the Provincial Reformatory or from the Central Prison back to the common gaol, or to any other gaol, or from the said Reformatory to the Central Prison.

Discharge of prisoners.

6. Whenever the time of any prisoner's sentence in the said Central Prison shall expire on a Sunday he shall be discharged on the previous Saturday, unless he desires to remain until the Monday following.

CHAP.



37 VICTORIA.

CHAP. 7.

An Act to amend "*An Act to make further provision as to Duties of Customs in Manitoba and the North-West Territories*," and further to restrain the importation or manufacture of Intoxicating Liquors into or in the North-West Territories.

[*Assented to 26th May*, 1874.]

Preamble.

IN amendment of the Act passed in the thirty-sixth year of Her Majesty's reign, intituled "*An Act to make further provision as to Duties of Customs in Manitoba and the North-West Territories*," Her Majesty, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows:—

Period limited by 36 V. c. 39, extended.

1. The period limited by the first section of the Act herein above cited is hereby extended, so that the Duties of Customs chargeable by law in Rupert's Land at the time of the passing of the Act referred to in the said section, shall be continued without increase in the Province of Manitoba and the North-West Territories, until the first day of July, One thousand eight hundred and seventy four, subject to the exception made in the first sub-section of the said section, and to the exceptions and provisions hereinafter contained.

Subs. 2 of s. 1 of 36 V. c. 39, repealed and new provisions substituted.

2. From and after the passing of this Act sub-section two of the first section of the said Act shall be and is hereby repealed, except as to things done or penalties incurred under it, and the following sub-sections substituted therefor, as part of the said Act:—

"2.

"2. Spirits, strong waters, spirituous liquors, wines, and fermented and compounded liquors and intoxicating drink of every kind are hereby prohibited to be imported into any part of the North-West Territories; nor shall any spirits, strong waters, spirituous liquors, wines or fermented or compounded liquors or intoxicating drink of any kind be manufactured or made in the said North-West Territories, or brought into the same from any Province of Canada, except by special permission in writing of the Lieutenant Governor of the said Territories: and if any spirits or strong waters, spirituous liquors, wines or fermented or compounded liquors or intoxicating drink are imported or manufactured or made in the said Territories or brought into the same, in contravention of this Act, they shall be absolutely forfeited and may be seized by any Officer of the Customs or Excise or by any constable wheresoever found; and on complaint made before him, any Judge, Stipendiary Magistrate or Justice of the Peace, may, on the evidence of one credible witness that this Act has been contravened in respect thereof, order the said spirits, strong waters, spirituous liquors, wines, or fermented or compounded liquors, or intoxicating drink so seized to be forthwith destroyed, or in case of the same not having been seized, then on complaint as aforesaid, such Judge, Stipendiary Magistrate, or Justice of the Peace may issue a search warrant, as in cases of stolen goods under the Acts in force respecting the duties of Justices of the Peace out of Sessions in relation to persons charged with indictable offences and upon the same being found may cause them to be forthwith destroyed."

Importation or making of intoxicating liquors into or in N. W. Territories prohibited.

Seizure and forfeiture for contravention.

"3. Any person in whose possession or on whose premises such spirits, strong waters, spirituous liquors, wines or fermented or compounded liquors, or intoxicating drink of any kind may be or may have been found, shall be liable to a penalty not exceeding two hundred dollars, nor less than fifty dollars, one half of which shall go to the informer."

Penalty.

How appropriated.

"4. Any penalty incurred under this Act shall be recoverable with costs of prosecution by summary conviction on the evidence of one credible witness, before any Judge, Stipendiary Magistrate or Justice of the Peace having jurisdiction in the North-West Territories, who shall, on payment of the same, pay the informer his share thereof; and in case of non-payment of the penalty and costs immediately after conviction, the convicting justice may, in his discretion, levy the same by distress and sale, or commit the person so convicted and making default in payment of the said penalty and costs, to any common gaol or house of correction or lock-up house within

How recoverable.

Imprisonment in default of payment.

within the North-West Territories for a period not exceeding six months, unless the said penalty and costs be sooner paid."

Conviction, &c., not invalid for want of form.

"5. No seizure, prosecution, conviction or commitment under this Act shall be invalid on account of want of form, so long as the same is according to the true intent and meaning of this Act."

Licenses to manufacture spirits to be issued only at certain places in British Columbia, &c.

3. After the expiration of the licenses now issued, licenses to manufacture spirits or other exciseable articles within the Provinces of Manitoba and British Columbia shall be issued only for the following places, namely:—Victoria and New Westminster in British Columbia, and Fort Garry in Winnipeg in Manitoba, and such other places as may, from time to time, be named for the purpose by order of the Governor in Council.

Act to be one with 36 V., c. 39.

4. This Act shall be construed as one Act with the Act hereby amended.

CHAP. 21.

An Act to amend certain Laws respecting Indians, and to extend certain Laws relating to matters connected with Indians to the Provinces of Manitoba and British Columbia.

[*Assented to 26th May*, 1874.]

Preamble.

HER Majesty, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows:—

31 V., c. 42, s. 12, and 32, 33 V., c. 6, s. 3 repealed, and new section substituted for the latter.

1. The twelfth section of the Act thirty-first Victoria, chapter forty-two, intituled "*An Act providing for the organization of the Department of the Secretary of State of Canada, and for the management of Indian and Ordnance Lands*," and the third section of the Act thirty-second and thirty-third Victoria, chapter six, intituled "*An Act for the gradual enfranchisement of Indians, the better management of Indian affairs, and to extend the provisions of the Act thirty-first Victoria, Chapter forty-two*," are hereby repealed, and the following shall be read in lieu of the last mentioned section:—

"3.

"3. 1. Whoever sells, exchanges with, barters, supplies, or gives to any Indian man, woman or child in Canada, any kind of intoxicating liquor, or causes or procures the same to be done, or connives or attempts thereat or opens or keeps, or causes to be opened or kept on any land set apart or reserved for Indians, a tavern, house or building where intoxicating liquor is sold, bartered, exchanged or given, or is found in possession of intoxicating liquor in the house, tent, wigwam or place of abode of any Indian, shall, on conviction thereof before any Justice of the Peace upon the evidence of one credible witness other than the informer or prosecutor, be liable to imprisonment for a period not exceeding two years, and be fined not more than five hundred dollars, one moiety to go to the informer or prosecutor, and the other moiety to Her Majesty, to form part of the fund for the benefit of that tribe or body of Indians with respect to one or more members of which the offence was committed; and the commander or person in charge of any steamer or other vessel, or boat, from or on board of which any intoxicating liquor shall have been sold, bartered, exchanged, supplied or given to any Indian man, woman or child, shall be liable, on conviction thereof before any Justice of the Peace, upon the evidence of one credible witness other than the informer or prosecutor, to be fined not exceeding five hundred dollars for each such offence, the moieties thereof to be applicable as hereinbefore mentioned, and in default of immediate payment of such fine any person so fined may be committed to any common gaol, house of correction, lock-up, or other place of confinement by the Justice of the Peace before whom the conviction shall take place, for a period of not more than twelve months, or until such fine shall be paid; and in all cases arising under this section, Indians shall be competent witnesses; but no penalty shall be incurred in case of sickness where any intoxicating liquor is made use of under the sanction of any medical man or under the directions of a minister of religion."

Provisions for preventing the supplying of intoxicating liquors to Indians.

Punishment for contravention, by fine and imprisonment.

If supplied from or on board any vessel.

Indians competent as witnesses.

Proviso.

"2. The keg, barrel, case, box, package or receptacle whence intoxicating liquor has been sold, exchanged, bartered, supplied or given, and as well that in which the original supply was contained as the vessel wherein any portion of such original supply was supplied as aforesaid, and the balance of the contents thereof, if such barrel, keg, case, box, package, receptacle or vessel aforesaid respectively, can be identified, and any intoxicating liquor imported or manufactured or brought into and upon any land set apart or reserved for Indians, or into the house, tent, wigwam or place of abode of any Indian, may be seized by any constable wheresoever found on such land; and on complaint before any Judge, Stipendiary Magistrate or Justice of the Peace, he

Forfeiture of the package containg such liquors.

Seizure of liquor.

And forfeiture.

he may, on the evidence of any credible witness that this Act has been contravened in respect thereof, declare the same forfeited, and cause the same to be forthwith destroyed; and the person in whose possession they were found may be condemned to pay a penalty not exceeding one hundred dollars, nor less than fifty dollars, and the costs of prosecution; and one-half of such penalty shall belong to the prosecutor, and the other half to Her Majesty for the purposes hereinbefore mentioned, and in default of immediate payment the offender may be committed to any common gaol, house of correction, lock-up or other place of confinement for any time not exceeding six months, unless such fine and costs are sooner paid."

Penalty on persons having such packages, &c., in possession.

Forfeiture of the vessel, boat, canoe, &c, carrying liquors to be supplied to Indians.

"3. When it shall be proved before any Judge, Stipendiary Magistrate or Justice of the Peace, that any vessel, boat, canoe, or conveyance of any description upon the sea or seacoast, or upon any river, lake or stream in Canada, is employed in carrying intoxicating liquor, to be supplied to any Indian or Indians, such vessel, boat, canoe, or conveyance so employed may be seized and declared forfeited as in the last sub-section mentioned, and sold, and the proceeds thereof paid to Her Majesty for the purposes hereinbefore mentioned.

Indian found drunk may be arrested:

"4. It shall be lawful for any constable, without process of law, to arrest any Indian whom he may find in a state of intoxication, and to convey him to any common gaol, house of correction, lock-up or other place of confinement, there to be kept until he shall have become sober; and such Indian shall, when sober, be brought before any Judge, Stipendiary Magistrate, or Justice of the Peace, and if convicted of being so found in a state of intoxication, shall be liable to imprisonment in any common gaol, house of correction, lock-up, or other place of confinement, for any period not exceeding one month. And if any Indian having been so convicted as aforesaid, shall refuse, upon examination, to state or give information of the person, place, and time, from whom, where and when he procured intoxicating liquor, and if from any other Indian, then, if within his knowledge, from whom, where and when such intoxicating liquor was originally procured or received, he shall be liable to imprisonment as aforesaid for a further period not exceeding fourteen days."

And must, on conviction, declare how he got the liquor. Punishment for refusal.

Interpretation clause. "Intoxicating liquor."

"5. The words 'intoxicating liquor' shall mean and include all spirits, strong waters, spirituous liquors, wines, or fermented or compounded liquors, or intoxicating drink of any kind whatsoever, and intoxicating liquor or fluid; as also opium and any preparation thereof, whether liquid or solid; and

and any other intoxicating drug or substance, and tobacco or tea mixed or compounded or impregnated with opium or with other intoxicating drug or substance, and whether the same, or any of them, be liquid or solid."

"6. No prosecution, conviction, or commitment under this Act shall be invalid on account of want of form so long as the same is according to the true meaning of this Act." Want of form not to invalidate proceedings under this Act.

2. The following shall be taken and read as a part of the fourteenth section of the thirty-first Victoria, chapter forty-two, that is to say:— 31 V., c. 42, s. 14 amended.

"Nor shall the same be sold, bartered, exchanged or given by any tribe, band or body of Indians, or any Indian of any such tribe, band or body to any person or persons other than a tribe, band or body of Indians or any Indian of any tribe; and any such sale, barter, exchange or gift, shall be absolutely null or void, unless any such sale, barter, exchange or gift be made with the written assent of the Indian agent; and any person who may buy or otherwise acquire any presents or property purchased as aforesaid without the written consent of the Indian agent as aforesaid shall be guilty of a misdemeanor, and be punishable by fine not exceeding two hundred dollars, or by imprisonment not exceeding six months in any place of confinement other than a Penitentiary." Certain sales exchanges, &c., to be void. Punishment of purchaser, &c.

3. Upon any inquest, or upon any enquiry into any matter involving a criminal charge, or upon the trial of any crime or offence whatsoever, or by whomsoever committed, it shall be lawful for any Court, Judge, Stipendiary Magistrate, Coroner or Justice of the Peace to receive the evidence of any Indian or aboriginal native or native of mixed blood, who is destitute of the knowledge of God, and of any fixed and clear belief in religion or in a future state of rewards and punishments, without administering the usual form of oath to any such Indian, aboriginal native or native of mixed blood as aforesaid, upon his solemn affirmation or declaration to tell the truth, the whole truth and nothing but the truth, or in such form as may be approved by such Court, Judge, Stipendiary Magistrate, Coroner or Justice of the Peace, as most binding in his conscience: Manner in which Indians, &c., may give evidence in criminal cases.

4. Provided that in the case of any inquest, or upon any inquiry into any matter involving a criminal charge, or upon the trial of any crime or offence whatsoever, the substance of the evidence or information of any such Indian, aboriginal native or native of mixed blood as aforesaid, shall be reduced to writing, and signed by a mark of the person giving the same, Further provision in the same matter

same, and verified by the signature or mark of the person acting as interpreter (if any), and of the judge, stipendiary magistrate, coroner or the Justice of the Peace or person before whom such information shall have been given.

Court to warn Indian of his liability to punishment for false statement.

5. The court, judge, stipendiary magistrate or Justice of the Peace shall, before taking any such evidence, information or examination, caution every such Indian, aboriginal native or native of mixed blood as aforesaid, that he will be liable to incur punishment if he do not so as aforesaid tell the truth.

When written declarations of Indians may be used in criminal proceedings.

6. The written declaration or examination made, taken and verified in manner aforesaid, of any such Indian, aboriginal native or native of mixed blood as aforesaid, may be lawfully read and received as evidence upon the trial of any criminal suit or proceedings when, under the like circumstances, the written affidavit, examination, deposition or confession of any person might be lawfully read and received as evidence.

Effect of declaration, &c., taken by any person as aforesaid.

7. Every solemn affirmation or declaration in whatever form made or taken by any person as aforesaid shall be of the same force and effect, as if such person had taken an oath in the usual form, and shall, in like manner, incur the penalty of perjury in case of falsehood.

Indian defined.

8. An Indian is hereby defined to be a person within the definition contained in the fifteenth section of the thirty-first Victoria, chapter forty-two, as amended by the sixth section of the thirty-second and thirty-third Victoria, chapter six, and who shall participate in the annuities and interest moneys and rents of any tribe, band or body of Indians.

Certain Acts and laws to be in force in British Columbia and Manitoba. Others repealed.

9. Upon, from and after the passing of this Act, the Acts and portions of Acts hereinafter mentioned of the Parliament of Canada shall be and are hereby extended to and shall be in force in the Provinces of Manitoba and of British Columbia; and all enactments and laws theretofore in force in the said Provinces inconsistent with the said Acts, or making any provision in any matter provided for by the said Acts, other than such as is made by the said Acts, shall be repealed on and after the passing of this Act.

The Acts and parts of Acts extended by s. 9.

10. The Acts and portions of Acts hereinbefore mentioned and hereby extended to and to be in force in the Provinces of Manitoba and of British Columbia, are as follows:—

1. Sections six to twenty-five both inclusive, and sections twenty-eight, twenty-nine, thirty, thirty-seven, thirty-eight, thirty-nine and forty-two, of the Act passed in the thirty-first

first year of Her Majesty's reign, and intituled "*An Act providing for the organization of the Department of the Secretary of State of Canada, and for the management of Indian and Ordnance Lands*;"

2. Sections one to twenty-one, both inclusive, and section twenty-four of the Act passed in the thirty-second and thirty-third years of Her Majesty's reign, intituled "*An Act for the gradual enfranchisement of Indians, the better management of Indian affairs, and to extend the provisions of the Act thirty-first Victoria, chapter forty-two*;"

3. Sections one, three, six, seven, eight, nine and sixteen, of the Act passed in the thirty-sixth year of Her Majesty's reign, and intituled "*An Act to provide for the establishment of the Department of the Interior.*"

Governor in Council may exempt Indians or Indian lands in Manitoba or British Columbia, from the operation of certain Acts, &c., and again subject them to the same.

11. The Governor in Council may, by proclamation from time to time, exempt from the operation of the Act passed in the thirty-first year of Her Majesty's reign, and intituled "*An Act providing for the organization of the Department of the Secretary of State of Canada, and for the management of Indian and Ordnance Lands*," or from the operation of an Act passed in the thirty-second and thirty-third years of Her Majesty's reign, intituled "*An Act for the gradual enfranchisement of Indians, the better management of Indian affairs, and to extend the provisions of the Act thirty-first Victoria, chapter forty-two*," or from the operation of the Act passed in the thirty-first year of Her Majesty's reign, and intituled "*An Act to provide for the establishment of the Department of the Interior*," or from the operation of this Act, or from the operation of any one or more of the clauses of any one or more of the said Acts, the Indians or any of them or any tribe of them or the Indian lands, or any portions of them in the Province of Manitoba, or in the Province of British Columbia, or in either of them, and may again, by proclamation, from time to time, remove such exemption.

And may extend and apply certain other Acts and enactments, generally to any Indians or Indian lands in N. W. Territories.

12. The Governor in Council may, by proclamation from time to time, direct the application of the Act passed in the thirty-first year of Her Majesty's reign, and intituled "*An Act providing for the organization of the Department of the Secretary of State of Canada, and for the management of Indian and Ordnance Lands*;" and of an Act passed in the thirty-second and thirty-third years of Her Majesty's reign, intituled "*An Act for the gradual enfranchisement of Indians, the better management of Indian affairs, and to extend the provisions of the Act thirty-first Victoria, chapter forty-two*;" and an Act passed in thirty-sixth year of Her Majesty's reign, and intituled "*An Act to provide for the establishment of the*

Department of the Interior;" or of any one or more of the clauses of any one or more of the said Acts to the Indians or any of them or any tribe of them, or the Indian lands or any portions of them, or that the same be in force generally in the North-west Territories.

Ordinance of Rev. Stat. of B. C. repealed in part.

13. The second, third and seventh sections of the Ordinance, No. 85, of the Revised Statutes of British Columbia are hereby repealed.

Act how to be construed.

14. This Act shall be construed as one Act with the Acts thirty-first Victoria, chapter forty-two, and thirty-second and thirty-third Victoria, chapter six.

CHAP. 37.

An Act for the suppression of Voluntary and Extra-Judicial Oaths.

[*Assented to 26th May*, 1874.]

Preamble.

WHEREAS a practice has prevailed of administering and receiving oaths and affidavits voluntarily taken and made in matters not the subject of any judicial enquiry, nor in anywise required or authorized by any law; and whereas doubts have arisen whether or not such proceeding is illegal; for the suppression of such practice and removing such doubts, Her Majesty by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows:—

Justices of the Peace, &c., not to administer oaths not authorized by law.

1. It shall not be lawful for any Justice of the Peace or other person to administer, or cause or allow to be administered, or to receive, or cause or allow to be received, any oath, affidavit or solemn affirmation, touching any matter or thing whereof such justice or other person hath not jurisdiction or cognizance by some law in force at the time being, or authorized, or required by any such law: Provided always, that nothing herein contained shall be construed to extend to any oath, affidavit or solemn affirmation before any justice in any matter or thing touching the preservation of the peace or the prosecution, trial or punishment of any offence, nor to any oath, affidavit or affirmation which may be required or authorized by any law of the Dominion of Canada, or by any law of the Province wherein such oath, affidavit or affirmation is received or administered, or is to be used, nor to to any oath, affidavit or affirmation, which may be required by the laws of any foreign country to give validity to instruments in writing designed to be used in such foreign countries

Proviso as to certain matters in criminal cases and proof of certain instruments.

tries respectively: And provided further that it shall be lawful for any Judge, Justice of the Peace, Public Notary or other functionary authorized by law to administer an oath, to receive the solemn declaration of any person voluntarily making the same before him in the form of the schedule to this Act annexed, in attestation of the execution of any written deed or instrument, or allegations of fact, or of any account rendered in writing, and if any such declaration be false or untrue in any material particular, the person making such false declaration shall be deemed guilty of a misdemeanor.

Proviso: Declaration may be made in attestation of deeds, accounts, &c.

2. Any Justice of the Peace or other person administering or receiving, or causing or allowing to be received or administered, any oath, affidavit or solemn affirmation contrary to the provisions of this Act, shall be deemed guilty of a misdemeanor, and shall be liable to be imprisoned for any term not exceeding three months, or to a fine not exceeding fifty dollars, at the discretion of the court.

Penalty for contravention of this Act.

SCHEDULE.

I, A. B., do solemnly declare that (*state the fact or facts declared to*) and I make this solemn declaration conscientiously believing the same to be true, and by virtue of the Act passed in the thirty-seventh year of Her Majesty's reign, intituled (*insert the title of this Act.*)

CHAP. 38.

An Act respecting the Crime of Libel.

[*Assented to 26th May*, 1874.]

Preamble.

WHEREAS it is expedient that the law respecting the crime of libel should in all respects be uniform throughout all portions of Canada; and for the better protection of private character, and for more effectually securing the liberty of the press, and for better preventing abuses in exercising the said liberty: Her Majesty, by and with the advice and consent of the Senate and House of Commons of Canada, declares and enacts as follows:—

Punishment for publishing or threatening to publish any writing with intent to extort money, &c.

1. Whosoever publishes or threatens to publish any libel upon any other person, or directly or indirectly—

1. Threatens to print or publish, or

2.

2. Proposes to abstain from printing or publishing of, or

3. Offers to prevent the printing or publishing of any matter or thing touching any other person—

with intent to extort any money or security for money, or any valuable thing, from such or from any other person, or with intent to induce any person to confer upon or procure for any person any appointment or office of profit or trust, is guilty of a misdemeanor, and shall be liable to a fine not exceeding six hundred dollars, or to imprisonment, with or without hard labor, in any gaol or place of confinement other than the penitentiary, for any term less than two years, or both, as the court may award: Provided always that nothing herein contained shall in any manner alter or affect any law now in force in respect of the sending or delivery of threatening letters or writings.

Proviso.

Punishment for publishing a defamatory libel, knowing it to be false.

2. Whosoever maliciously publishes any defamatory libel, knowing the same to be false, is guilty of a misdemeanor, and shall be liable to a fine not exceeding four hundred dollars, or to imprisonment with or without hard labor, in any gaol or place of confinement other than the penitentiary for any term less than two years, or both, as the court may award.

Punishment for publishing any defamatory libel.

3. Whosoever maliciously publishes any defamatory libel is guilty of a misdemeanor, and shall be liable to a fine not exceeding two hundred dollars, or to imprisonment with or without hard labour, in any gaol or place of confinement other than the penitentiary for any term not exceeding one year, or both, as the court may award.

Rights and duties of court and jury and defendant, on plea of not guilty of making or publishing a defamatory libel being pleaded.

4. On the trial of any indictment or information for the making or publishing of any defamatory libel, on the plea of not guilty pleaded, the jury sworn to try the issue may give a general verdict of guilty or not guilty upon the whole matter put in issue upon such indictment or information, and shall not be required or directed by the court or judge before whom such indictment or information is tried, to find the defendant guilty, merely on the proof of publication by such defendant of the paper charged to be a defamatory libel, and of the sense ascribed to the same in such indictment or information; but the court or judge before whom such trial is had shall, according to the discretion of such court or judge, give the opinion and direction of such court or judge to the jury on the matter in issue, as in other criminal cases; and the jury may on such issue find a special verdict, if they think fit so to do; and the defendant, if found guilty, may move in arrest of judgment on such ground and in

in such manner as he might have done before the passing of this Act.

On plea of justification pleaded the truth of the matters charged may be inquired into.

5. On the trial of any indictment or information for a defamatory libel, the defendant having pleaded such a plea as hereinafter mentioned, the truth of the matters charged may be inquired into, but shall not amount to a defence, unless it was for the public benefit that the said matters charged should be published.

What must be alleged to entitle defendant to give evidence of the truth of the matters charged as a defence to any indictment.

6. To entitle the defendant to give evidence of the truth of such matters charged as a defence to any such indictment or information it shall be necessary for the defendant, in pleading to the indictment or information, to allege the truth of the matters charged, and further to allege that it was for the public benefit that the said mattters charged should be published; to which plea the prosecutor shall be at liberty to reply generally, denying the whole thereof.

The truth not to be inquired into unless specially pleaded.

7. Without such plea the truth of the matters charged as libellous in any such indictment or information, or that it was for the public benefit that such matters should have been published, shall in no case be inquired into.

Effect of plea of justification in case of conviction.

8. If after such plea the defendant be convicted on such indictment or information, the court, in pronouncing sentence, may consider whether the guilt of the defendant is aggravated or mitigated by such plea, and by the evidence given to prove or disprove the same.

Special plea not to take away or prejudice any defence under plea of not guilty.

9. In addition to such plea of justification, the defendant may plead not guilty; and no defence otherwise open to the defendant under the plea of not guilty shall be taken away or prejudiced by reason of such special plea.

On plea of not guilty defendant may rebut presumptive evidence of publication by his authority.

10. Whenever, upon the trial of any indictment or information for the publication of a defamatory libel, to which a plea of not guilty has been pleaded, evidence is given which establishes a presumptive case of publication, against the defendant by the act of any other person, by his authority, the defendant may prove, and if proved it shall be a good defence, that such publication was made without his authority, consent or knowledge, and that such publication did not arise from want of due care or caution on his part.

Right to set aside jurors not allowed to private prosecutor.

11. The right of the Crown to cause any juror to stand aside until the panel has been gone through, shall not be exercised on the trial of any indictment or information by a private prosecutor for the publication of a defamatory libel.

As between private prosecutor and defendant, costs to follow the judgment.

12. In the case of an indictment or information by a private prosecutor for the publication of a defamatory libel, if judgment be given against the defendant, he shall be liable for the costs sustained by the prosecutor by reason of such indictment or information; and if judgment be given for the defendant he shall be entitled to recover from such prosecutor the costs sustained by him (the defendant) by reason of such indictment or information; such costs, so to be recovered by the prosecutor or defendant respectively, to be taxed by the court, judge or the proper officer of the court before which such indictment or information is tried.

Proceedings for the enforcing of payment of such costs.

13. The costs mentioned in the last preceding section of this Act shall be recoverable either by warrant of distress issued out of the said court, or by suit on said bill of costs as for an ordinary debt.

Inconsistent acts and laws repealed.

14. So much of any Act or law in force in any portion of Canada as may be inconsistent with this Act, or makes other provision with respect to any matter provided for by this Act is hereby repealed.

CHAP. 39.

An Act to extend certain Acts relating to the prompt administration of justice in criminal matters to the Province of Manitoba.

[*Assented to 26th May*, 1874.]

Preamble. 34 V., c. 13.

WHEREAS the Acts hereinafter mentioned are in schedule "A" to the Act passed in the thirty-fourth year of Her Majesty's reign, intituled "*An Act respecting the force and effect of the Acts of the Parliament of Canada, in and in relation to the Province of Manitoba and the Colony of British Columbia when it becomes a Province of Canada*," mentioned as among those which shall not under that Act apply to the Province of Manitoba, and it is found expedient to remove such restriction and extend them to the said Province: Therefore Her Majesty, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows:—

Acts 32, 33 V., cc. 32, 33 extended to Manitoba.

1. So much of schedule "A" to the Act cited in the preamble to this Act, or of any other part of the said Act, as would prevent the application to the said Province, of the Acts passed in the session held in the thirty-second and thirty-third years of Her Majesty's reign, and intituled respectively,

spectively, "*An Act respecting the prompt and summary administration of Criminal Justice in certain cases,*" and "*An Act respecting the trial and punishment of Juvenile Offenders,*" is hereby repealed; and the said Acts shall extend and apply to the Province of Manitoba as they would have done under the Act cited in the preamble if they had been omitted from the said schedule "A," subject to the provisions of this Act.

This Act not retroactive.

2. Nothing in this Act shall be so construed as to give a retroactive effect to the Acts hereby extended to Manitoba, or to any enactment or provision therein.

Interpretation of expressions in the said Acts, 32, 33 V., cc. 32, 33.

3. In the first mentioned of the two Acts hereby extended to Manitoba, the expression "a competent magistrate," and the expression "the magistrate" shall, with respect to the said Province, have the same meaning, and include the like functionaries and tribunals as with respect to the Provinces of Quebec and Ontario; and in the secondly mentioned of the said two Acts, the expression "any two or more justices," and the expression "the justices" shall, with respect to the Province of Manitoba, have the same meaning and include the like functionaries and tribunals as with respect to the said Provinces of Quebec and Ontario; and the expression "the common gaol or other place of confinement," in either of the said Acts shall have the same meaning with respect to the said Province of Manitoba, as with respect to the other Provinces mentioned in the said Act.

CHAP. 40.

An Act to amend the Act respecting the prompt and summary administration of Criminal Justice in certain cases, as respects the Provinces of Nova Scotia and New Brunswick.

[*Assented to 26th May*, 1874.]

Preamble. 32, 33 V., c. 32 amended.

IN amendment of the Act passed in the session held in the thirty-second and thirty-third years of Her Majesty's reign, and intituled "*An Act respecting the prompt and summary administration of Criminal Justice in certain cases,*" Her Majesty, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows:—

What certain expressions in 32, 33 V., c. 32

1. The expression "a Competent Magistrate," in the said Act, shall, as respects the Province of Nova Scotia or the Province

shall mean as respects New Brunswick and Nova Scotia.

Province of New Brunswick, mean and include any Recorder, Judge of a County Court, Stipendiary Magistrate or Police Magistrate, acting within the local limits of his jurisdiction, as well as any functionary included by the said expression as respects either of the said Provinces under the terms of the said Act; and the expression "the Magistrate," in the said Act, shall, as respects either of the said Provinces, mean a competent Magistrate, as above defined; and the said Act shall, from and after the passing of this Act, be construed and have effect accordingly.

CHAP. 41.

An Act for avoiding doubts as to the application of the Act 32-33 Victoria, chapter 35, to the District of Algoma.

[*Assented to 26th May*, 1874.]

Preamble.

FOR avoiding doubts as to the application of the Act hereinafter mentioned to and in the Provisional Judicial District of Algoma, in the Province of Ontario: Her Majesty, by and with the advice and consent of the Senate and House of Commons of Canada, declares and enacts as follows:—

The Act 32-33 V., c. 35 declared to apply and to have applied to Algoma.

1. It was and is the intent and meaning of the Act passed in the session held in the thirty-second and thirty-third years of Her Majesty's reign, and intituled "*An Act for the more speedy trial in certain cases, of persons charged with felonies and misdemeanors in the Provinces of Ontario and Quebec*," that the said Act should apply to the said Provisional District of Algoma, and that the judge of the said district, being authorized to act as chairman of the general sessions of the peace, should have all the powers vested by the said Act in a County Judge so authorized; and the said Act shall be construed to have and to have had effect accordingly, and all things heretofore done by the judge of the said district under the said Act so construed, are hereby confirmed and declared valid.

CHAP

CHAP. 42.

An Act to extend to the Province of British Columbia certain of the Criminal Laws now in force in other Provinces of the Dominion.

[*Assented to 26th May*, 1874.]

Preamble. HER Majesty, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows :—

Acts mentioned in schedule extended to British Columbia, so far as of general application. **1.** The Statutes of the Parliament of Canada, passed in the sessions held respectively in the thirty-first and in the thirty-second and thirty-third, and in the thirty-third years of the reign of Her Most Gracious Majesty, and mentioned in the Schedule to this Act, are and each of them is hereby extended to, and shall have the force and effect of law within the Province of British Columbia, save and except in so far only as any provision of any such Statute may therein be declared to be applicable to one or more only of the Provinces composing the Dominion at the time of the passing of such Statute and mentioned therein.

Such Acts to have force and effect in British Columbia as in all the Provinces of Canada as a whole. **2.** In case any of the said Acts, or any enactment or provision therein has force or effect in relation to one of the Provinces composing the Dominion at the time of its passing, in a sense peculiar to that Province, and different from the sense in which it has force and effect in relation to all the said Provinces as a whole, such Act, enactment or provision shall have force and effect within and in relation to the Province of British Columbia, in the last mentioned sense only.

Effect of passing of this Act **3.** Nothing in this Act shall be construed as a declaration that any of the said Acts, or any part thereof had not or has not or would not have without the passing of this Act, force or effect in and in relation to the Province of British Columbia.

Actsextended not to have retroactive effect. **4.** Nothing in this Act shall be construed to give a retroactive effect to any of the Acts hereby extended, or to any enactment or provision therein, so as to make any act done before it comes into force a crime or offence if it would not be so without this Act, or to alter the punishment for any crime or offence committed before it comes into force, but such crime or offence shall be tried, and all procedure respecting it, after the said time, shall be had under the provisions of the said Act.

5.

Supreme Court of British Columbia to try felonies, &c.

5. The Supreme Court of British Columbia, and any court to be hereafter constituted by the Legislature of the said Province, and having the powers now exercised by the said court, shall have power to hear, try and determine in due course of law, all treasons, felonies and indictable offences whatsoever mentioned in any of the said Acts, which may be committed in any part of the said Province.

Common gaol in British Columbia to be a Penitentiary for sentences of not less than two years.

6. In the absence of any penitentiary building, any common gaol, or other place of confinement in the Province of British Columbia, shall be held to be a penitentiary for the confinement and reformation of persons, male and female, lawfully convicted of crime before the courts of British Columbia, and sentenced to confinement for a term of not less than two years; and whenever any offender is punishable by imprisonment, such imprisonment, whether it be for life or two years, or for any longer term, shall be in any such common gaol, or other place of confinement, according to the judgment of the court.

Inconsistent laws of British Columbia repealed.

7. So much of every law in force in the Province of British Columbia, at the time of the passing of this Act, as is inconsistent with or repugnant to any of the enactments or provisions of any Act of the Parliament of Canada mentioned in the schedule to this Act, or makes any provision for any matter provided for by any of the said enactments or provisions, is hereby repealed; but this repeal shall not affect the past operation of any such law, or the validity of anything already done, or any right, title, obligation or liability already accrued, or any penalty or forfeiture already incurred thereunder.

Proviso.

Commencement of Act.

8. This Act shall commence and take effect on, from and after the first day of January next after the passing thereof.

SCHEDULE A.

ACTS OF THE PARLIAMENT OF CANADA REFERRED TO IN THE FIRST SECTION OF THIS ACT.

Acts passed in the First Session, 31st Victoria, 1867, 1868.

Chap. 14. An Act to protect the inhabitants of Canada against lawless aggressions from subjects of foreign countries at peace with Her Majesty.

Chap.

Chap. 15. An Act to prevent the unlawful training of persons to the use of arms, and the practice of military evolutions, and to authorize Justices of the Peace to seize and detain arms collected or kept for purposes dangerous to the public peace.

„ 69. An Act for the better security of the Crown and of the Government. (As amended by 32-33 Vict., chap. 17).

„ 70. An Act respecting riots and riotous assemblies.

„ 71. An Act respecting forgery, perjury and intimidation in connection with the Provincial Legislatures and their Acts.

„ 72. An Act respecting Accessories to and Abettors in indictable offences.

„ 73. An Act respecting the Police of Canada.

„ 74. An Act respecting persons in custody charged with high treason or felony.

„ 94. An Act respecting the Treaty between Her Majesty and the United States of America, for the apprehension and surrender of certain offenders. (As amended by 33 Vict., chap. 25.)

Acts passed in the Second Session, 32-33 Victoria, 1869.

Chap. 17. An Act to remove doubts as to legislation in Canada regarding offences not wholly committed within its limits.

„ 18. An Act respecting offences relating to the coin.

„ 19. An Act respecting forgery.

„ 20. An Act respecting offences against the Person. (As amended by 36 Vict., chap. 50.)

„ 21. An Act respecting Larceny and other similar offences. (As amended by 35 Vict., chaps. 33 and 35.)

„ 22. An Act respecting Malicious Injuries to Property. (As amended by 35 Vict., chap. 34.)

„ 23. An Act respecting Perjury. (As amended by 33 Vict., chap. 26.)

„ 24. An Act for the better preservation of the Peace in the vicinity of Public Works. (As amended by 33 Vict., chap. 28.)

„ 25. An Act respecting certain offences relative to Her Majesty's Army and Navy.

„ 26. An Act for the better protection of Her Majesty's Military and Naval Stores.

„ 27. An Act respecting Cruelty to Animals. (As amended by 33 Vict., chap. 29.)

„ 28. An Act respecting Vagrants.

Chap.

Chap. 29. An Act respecting Procedure in Criminal Cases, and other matters relating to Criminal Law. (As amended by 36 Vict., chaps. 3 and 51.)

„ 30. An Act respecting the duties of Justices of the Peace out of Sessions in relation to persons charged with indictable offences.

„ 31. An Act respecting the duties of Justices of the Peace out of Sessions in relation to Summary Convictions and Orders.

„ 32. An Act respecting the prompt and summary administration of criminal justice in certain cases. [In applying this Act to British Columbia, the expression "competent magistrate" shall be construed as meaning any two Justices of the Peace sitting together, as well as any functionary or tribunal having the powers of two Justices of the Peace, and the jurisdiction shall be absolute without the consent of the parties charged.]

„ 33. An Act respecting the trial and punishment of juvenile offenders. [In applying this Act to British Columbia, the expression "any two or more justices" shall be construed as including any magistrate having the powers of two Justices of the Peace. This Act shall not apply to any offence punishable by imprisonment for two years and upwards, and it shall not be necessary that the recognizance be transmitted to any Clerk of the Peace.]

Acts passed in the Third Session, 33rd Victoria, 1870.

Chap. 25. An Act to amend the Act respecing the extradition of certain offenders to the United States of America.

„ 26. An Act to amend the Act respecting Perjury.

„ 27. An Act to amend the Act respecting the duties of Justices of the Peace out of Sessions in relation to Summary Convictions and Orders.

„ 28. An Act to amend an Act for the better preservation of the Peace in the vicinity of Public Works.

„ 29. An Act to amend an Act repecting Cruelty to Animals.

„ 31. An Act for the better protection of the Clothing and Property of Seamen in Her Majesty's Navy.

Acts passed in the present Session, 37 Victoria, 1874.

Any Act amending any of the Acts in this Schedule.

CHAP.

CHAP. 43.

An Act to amend "An Act respecting Vagrants."

[*Assented to 26th May*, 1874.]

Preamble. 32-33 V., c. 28.

IN amendment of the Act passed in the Session held in the thirty-second and thirty-third years of Her Majesty's reign, intituled "*An Act respecting Vagrants*," Her Majesty, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows:—

Term of imprisonment of offenders increased.

1. The term for which any offender may be sentenced to imprisonment, under the Act hereinbefore mentioned, is hereby extended to six months.

OTTAWA: Printed by BROWN CHAMBERLIN, Law Printer (for Canada) to the Queen's Most Excellent Majesty.

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* Treaty published in *Canada Gazette*, 3rd February, 1844.

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OTTAWA:

PRINTED BY BROWN CHAMBERLIN, LAW PRINTER (FOR CANADA) TO THE QUEEN'S MOST EXCELLENT MAJESTY.

1875.